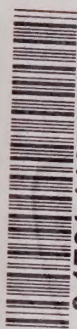


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BELL

ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

X Percival

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

Shanahan

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Labone

Tobias

Transcript of evidence
for

February 9, 1984

Brown

VOLUME 101

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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN
AND RELATED MATTERS.

Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Thursday, the 9th
day of February, 1984.

- - - - -

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

- - - - -

APPEARANCES:

P.S.A. LAMEK, Q.C.)	Commission Counsel
E. CRONK)	
D. HUNT)	Counsel for the Attorney
L. CECCHETTO)	General and Solicitor General
	of Ontario (Crown Attorneys
	and Coroner's Office)
I.J. ROLAND)	Counsel for The Hospital for
M. THOMSON)	Sick Children
R. BATTY)	
B. PERCIVAL, Q.C.)	Counsel for The Metropolitan
D. YOUNG)	Toronto Police
W.N. ORTVED	Counsel for numerous Doctors
	at The Hospital for Sick
	Children
F. KITELY	Counsel for the Registered
	Nurses' Association of Ontario
	and 35 Registered Nurses at
	The Hospital for Sick Children

(Cont'd)...



APPEARANCES: (Continued)

D. BROWN	Counsel for Susan Nelles - Nurse
E. FORSTER	Counsel for Phyllis Trayner - Nurse
M. ROSENBERG	Counsel for Sui Scott - Nurse
J.A. OLAH	Counsel for Janet Brownless - R.N.A.
B. KNAZAN	Counsel for Mrs. M. Christie - R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin, Mr. & Mrs. Gionas, Mr. & Mrs. Inwood, Mr. & Mrs. Turner, Mr. & Mrs. Lutes, and Mr. & Mrs. Murphy (parents of deceased children)
F.J. SHANAHAN	Counsel for Mr. & Mrs. Dominic Lombardo (parents of deceased child Stephanie Lombardo); and Heather Dawson (mother of deceased child Amber Dawson)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines (parents of deceased child Jordan Hines)



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A/ DM /ak

1
2 --- Upon commencing at 9:30 a.m.

3 BERTHA BELL, Resumed

4 THE COMMISSIONER: Yes, Mr. Labow?

5 MR. LABOW: Good morning,

6 Mr. Commissioner. Mr. Percival has allowed me to
7 interrupt his cross-examination to make a formal
8 submission to you concerning certain statements,
9 and this submission is made on behalf of the counsel
10 for all of the parents of all of the children who
11 are here.

12 We have been told by Commission
13 Counsel to determine whether we would like other
14 witnesses called, and to try and decide if we do
15 want other witnesses called by the end of this
16 month, and that is a fair request, except that we
17 are in a position where we really can't determine
18 whether we want other witnesses called. What we
19 would like is access to any notes or statements
20 made by specific doctors and nurses in this matter.

21 Mr. Commissioner, the reason being
22 not that we question at all the integrity or even
23 the judgment of Commission Counsel, but first of all
24 they do not have to answer to our clients regarding
25 specific doctors and nurses and why they were not
called, and more importantly they do not have the

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1
2 background information with regard to our cases
3 that we have. They may not realize that a seemingly
4 innocuous portion of a statement that they reviewed
5 may actually be very important to one of our cases.

6 Now, what we would like to do is
7 have access to the statements of nurses and doctors,
8 and we can provide specific lists with regard to
9 each child that we represent, just to review them to
10 see if there is something in those statements that
11 we think makes it imperative that they be called
12 and then we can make submissions with regard to
calling those people as witnesses.

13 Now the problems are that we don't
14 want to be faced with a situation where we say to
15 Commission Counsel, these three doctors and these
16 four nurses were very involved in the last few days
17 of life of the children that we represent, and we
18 would like them called to see what they know. As
19 you have explained to us this is not a discovery
20 process and we understand that, and we do not want
21 to lengthen this proceeding any more than it has
22 been dragged out to date. We would like to review
23 this material in order to determine if there is
24 something there that we really think is cogent and
25 relevant and may help you to determine the cause



1
2 of death.

3 Now, I have explained to some counsel,
4 Mr. Ortved, Miss Kitley and counsel for the Hospital
5 that I would be making this submission. I don't
6 know what their positions are, except for Miss Kitley,
7 who says she really cannot agree to our having
8 access to all of these statements. We are not asking
9 for access to all the statements. Mr. Lamek has
10 made it very clear to us that there are volumes of
11 statements. We do not want to go through every
12 statement, we only want to go through the statements
13 of specific doctors and nurses who had direct contact
14 with our cases.

14 THE COMMISSIONER: All right. Well,
15 can you name them?

16 MR. LABOW: Well, I could provide
17 counsel and you, Mr. Commissioner, with a list with
18 regard to my six children; and Mr. Tobias,
19 Mr. Shanahan and Mr. Shinehoft can do the same
20 with regard to their cases. It is the principle
21 involved that is more important, and we submit
22 that we cannot make the proper submissions to you
23 or to Commission Counsel for the calling of witnesses
24 without that access.

25 THE COMMISSIONER: No, I understand



1
2
3 that. The problem of course is, as you know, there
4 is another aspect of it, that witnesses have said
5 things to policemen that are hopelessly inadmissible,
6 and besides being inadmissible are irrelevant and
7 speculative and everything wrong with it. The
8 witnesses themselves would not like to have, they
9 didn't think that what they said in those statements
10 was going to become public property; and it has to
11 become public property, what they said, if it is
12 relevant and admissible.

13 I suppose there is another aspect of
14 it too, it is prejudicial to certain people, other
15 people who are not making the statements. If the
16 people are not going to be called - well, I don't
17 know, I understand your point, it is very difficult
18 to have someone else decide how to conduct your
19 case for you and that is what is happening here.

20 MR. LABOW: It is even more than
21 that in this situation, because we do have the
22 information provided to us by the parents.

23 THE COMMISSIONER: Yes.

24 MR. LABOW: And the parents of
25 course could indicate to us that this very specific
doctor said something, and if that of course is not
in his statement, or is in the statement in a



1
2 different way, or something to that effect, then we
3 are the only ones who will know that that is the
4 situation.

5 THE COMMISSIONER: Yes.

6 MR. LABOW: And we can't go over
7 with Commission Counsel every piece of information
8 that we have in every one of our cases.

9 In addition, Mr. Commissioner, you
10 could also order that we be given these but they
11 not become public, subject to our later making
12 submissions that certain witnesses should be called.
13 We have been given a number of things in that way
14 and there is no reason why these statements could
15 not be given to us in the same way. Of course, the
16 other problem is, and I think it has been most
17 clearly demonstrated with this witness, that while
18 some counsel do have statements, others do not.
19 Oftentimes even though it may be in some way
20 relevant to the determination of the cause
21 cause of death, these counsel choose not to cross-
22 examine upon those statements. Even when Mr. Hunt
23 was cross-examining Mrs. Bell about the statement
24 that we did get yesterday, he was not anxious to
25 have the statement shown to Mrs. Bell and then be
given to all the other counsel. With this witness



1
2 for example, we do not know what her other statements
3 say, and it puts us in an almost untenable position
4 when we take our turn in cross-examining this
5 witness, unless we decide to just ask questions at
6 large which we do not want to do, and I am sure you
7 do not want us to do.

8 THE COMMISSIONER: No, I don't
9 want you to do that. You have to bear in mind
10 that you are often in that position, the same
11 position that you are in now in any civil lawsuit,
12 you are in that position, and in any criminal law-
13 suit you are in that position as well.

14 MR. LABOW: Except this is a
15 speciali situation, because so many counsel have
16 access to statements that other counsel don't.

17 THE COMMISSIONER: That's right.

18 MR. LABOW: And the inequities
19 are vast.

20 THE COMMISSIONER: That is right,
21 that's right. All right. Now, I want to hear
22 argument on this, I don't know whether people are
23 ready to argue now.

24 MR. TOBIAS: Mr. Commissioner, if
25 I can just --

THE COMMISSIONER: Well, just a



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2
3 second, I want to hear the opposition first of all.
4 I take it you are on Mr. Labow's side?

5 MR. TOBIAS: Yes, Mr. Commissioner.
6 If I could make one point, and address myself to
7 one point. I want to make it clear because I think
8 Mr. Labow may have left this slightly vague. It is
9 a two-pronged process, we are not asking at this
10 moment that we actually get the statements, that
11 may come later. What we are asking at this moment
12 is that we get access to some of those statements
13 and be allowed to review them in the Commission
14 offices.

15 THE COMMISSIONER: Of course once
16 you have had access and have reviewed them your
17 client can make use of them.

18 MR. TOBIAS: Well, that becomes
19 the next argument. My point is that at that point
20 we will have a defined number of specific statements
21 and we can make lucid argument with respect to those
22 specific statements and whether they are relevant.

23 THE COMMISSIONER: Once you have
24 access to the statements, you have access to the
25 statements, and you have what is in the statement
and you not only have the right, you must make use
of them if it is in your client's interest.



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MR. TOBIAS: I agree.

THE COMMISSIONER: So before we let you see the statement we have to understand that is what is going to happen.

MR. TOBIAS: One of the concerns I would think has to be the putting of the statement of the witness in the witness box, if we didn't have copies or statements, although we may question relevant areas, we couldn't put that statement to the witness, and if we tried to and it is not proper to be raising you can stop us.

THE COMMISSIONER: Yes, maybe so, maybe so. Yes, all right. Mr. Labow, have you finished?

MR. LABOW: Yes, Mr. Commissioner, those are my submissions.

THE COMMISSIONER: Well now, I take it that the proposition is that you would name certain statements of certain people if there are such statements you would like to see them, is that right?

MR. LABOW: That is correct. We would name very specific people whose statements we would like to review.

THE COMMISSIONER: And you have some



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2
3 reason for it I take it?

4 MR. LABOW: Well in most cases
5 they are the doctors and/or nurses who were very
6 involved in the treatment of our children on the
7 spot.

8 THE COMMISSIONER: Supposing they
9 said nothing about your child at all, any of your
10 children?

11 MR. LABOW: Well, if we see no
12 reason after reading the statements to have them
13 called then of course we won't ask that they be
14 called.

15 THE COMMISSIONER: It is a relatively
16 simple, even I can do that by looking at the state-
17 ment and seeing whether your child was mentioned at
18 all.

19 MR. LABOW: Well it may not be
20 mentioned, it may be lack of mention that is more
21 important in some of these cases. If, for example,
22 the doctor had direct contact with the child and
23 the parents, but left out what we consider to be
24 very relevant facts, then we might want that doctor called
25 to examine him in that area in order to clarify
certain things that would go to cause of death.

On the other hand, if the doctor has



1
2 mentioned the areas that we are concerned with and
3 answered our concerns then we wouldn't want the
4 doctor called or the nurse, and that is really the
5 proposition we are putting before you. Unless we
6 can review them with our background knowledge then
7 we won't know one way or the other, we will be
8 shooting in the dark so to speak. There are certain
9 doctors and nurses that we all feel should be called,
10 but without some cogent reason for it, aside from
11 our suspicions and the fact that they were involved
12 in the treatment of the children at very important
13 times there is very little we can say to you on that
point.

14 THE COMMISSIONER: Yes, all right.

15 Thank you.

16 MR. LABOW: Thank you.

17 THE COMMISSIONER: Mr. Lamek, how
18 do you want to deal with this, I am not asking you
to argue the matter now.

19 MR. LAMEK: I understand,
20 Mr. Commissioner. Perhaps it might be appropriate
21 to find a time to argue this because no doubt there
22 will be other people interested. Those, for example
23 who act for the makers of many of these statements.
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May I just say one thing if I may however. My friend refers to our cases and making our cases, advancing our cases and so on. I confess that is not quite the way I perceive what is going on before you, sir, not so much there are cases to be made and positions to be asserted but rather interests that might be affected. I'm not really playing with the words, but equally my concern is this does not turn into what you have described on a number of occasions as you have described an examination for discovery. Indeed, even on an examination for discovery I say with the greatest of respect to my friend that essentially what he is describing is what we know in the litigation process as a fishing expedition and oddly enough he wants to go fishing in waters that are seething with fish, not all of which are edible or to his taste and they are seething with fish because there is a rather unusual situation here.

The police went out and for many, many months interviewed hosts of people in the course of an investigation. Without any criticism to them it is in the nature of the process, much of what they got was irrelevant; that's no criticism. Much of it is totally irrelevant. A lot of it is, as you



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say, unfairly prejudicial to people.

There are allegations made in statements which upon inquiry simply do not hold up and which frankly should not see the light of day because they have been investigated further and found to be baseless.

There are other allegations which are based upon the flimsiest of impression. The example that I have quoted from time to time, although it is perhaps not an actual one is, well, it must have been Dr. So and So, his eyes are too close together, I have never trusted him. That is not a gross exaggeration of the kind of thing that is volunteered to policemen in the course of an investigation like this. It is utterly inappropriate by way of evidence and there has been obviously a very sincere attempt made to screen out the irrelevant and the unfairly prejudicial in this.

Now, having said that, I do think however, that the suggestion made by Mr. Labow on behalf of the counsel for the parents, is an understandable one that has got to be considered in the light of the positions of all people who may be affected by it.

I suggest, sir, that we find a couple of



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hours and in the near future because it is a matter that has to be addressed very soon and perhaps we can hear from everybody interested so that you may make a determination as to what will happen on it.

THE COMMISSIONER: Anybody else any suggestion on the procedure?

MR. ORTVED: I would just like to make one very brief submission and it is along the line of Mr. Lamek. It really comes down to this, Mr. Commissioner. You have retained a Commission counsel to address those issues which you have been required to investigate and it strikes me that really Mr. Labow's submission goes to the thrust of the discretion that is being applied by your Commission counsel as to what you are to hear and you must bear in mind that this is in the context of a number of actions that are pending against the very people whose statements Mr. Labow wishes to have exposed.

So, I would oppose his request and I would like an opportunity to address the whole issue at a later time.

THE COMMISSIONER: Oh, yes. Well, there will be lots of opportunity for that.

MR. LABOW: Mr. Commissioner, I would like to point out that the six parents that I



B.4

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2 represent have no pending actions and my whole point
3 here is to avoid a fishing expedition and to avoid
4 a fishing expedition that will take place in this
5 council, in this Inquiry's chambers, right here. I
6 would rather be given the opportunity to review
7 these things to ensure that we don't ask that certain
8 people be called.

9 THE COMMISSIONER: Yes, Mr. Brown?

10 MR. BROWN: I am representing a person
11 who is probably most directly affected by a number
12 of statements, at least up to a certain point of time.
13 I would initially oppose that application. I imagine
14 a number of the statements were obtained during the
15 course of the investigation of the charges laid
16 against Susan Nelles. As Mr. Lamek has described
17 some of the evidence, I'm sure Miss Nelles' conduct
18 underwent microscopic examination and a lot of the
19 things which turned up simply are irrelevant and
20 baseless.

21 Miss Nelles has already been charged,
22 put in jeopardy once and discharged. She is now
23 being asked to appear before this Commission and
24 certainly during the course of this Commission
25 allegations have been made against her, actions have
been called into question and I would submit, sir,



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that it would be quite inappropriate to allow the disclosure of such statements to put her in jeopardy again on evidence which may be baseless and irrelevant.

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Also, sir, to put to other counsel statements which we perhaps do not have, we heard counsel do not have, I certainly see the difficulty that the parents are in, that they want the fullest investigation of this matter and that they are concerned that they find out how their children died.

I would submit that before any decision be made on this however that the matter be argued at the fullest length and that a date be set for that.

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MS. KITELY: Mr. Commissioner, since Mr. Labow quoted me, might I just indicate that my response to his request informally was to be consistent with the position we have taken all along. We are not prepared to give a blanket approval to, yes, these statements may be made available.

18

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Might I suggest though that your suggestion of a list being prepared would be very helpful, it would be nice to know whether we are dealing with a mountain or a molehill and if my friend would prepare the list by baby of the individuals whom they are interested in.

23

24

25

THE COMMISSIONER: Prepare the list by what?



B.6

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MS. KITELY: By baby.

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THE COMMISSIONER: By baby, oh, yes.

4

MS. KITELY: We don't want just a

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blanket list of individuals but those whom he thinks

6

are relevant to a particular child then we can at

7

least address it in that frame of reference.

(2)

8

THE COMMISSIONER: Well, we know what

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child they are concerned with, at least the parents

10

are concerned with.

11

Incidentally, is there anyone other

12

than - I am not suggesting that the case isn't a good

13

one, but is there anyone other than the parents who

14

are seeking this relief?

15

No. Well then, we have no problem

16

about the baby that they are concerned with.

17

MS. KITELY: What I am suggesting, sir,

18

if my friend will take Baby Smith and he wants Nurse X

19

and Doctor Y then we can relate those to the baby,

20

rather than a blanket list of X's and Y's.

21

THE COMMISSIONER: No, no. But we know

22

the baby, they are going to ask for Dr. So and So's

23

statement. We know the baby with which they are

24

concerned. I don't think we need to have the baby -

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for instance, if Mr. Tobias seeks to have the

evidence of Dr. So and So then we can look at the



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statement of Dr. So and So and look at what Dr. So and So was doing; first of all, he was not attending Jordan Hines at any time and, secondly, in the statement he never said anything about Jordan Hines then surely ---

MS. KITELY: I agree with you, sir, Mr. Tobias is easy. Mr. Labow has got six families.

THE COMMISSIONER: Well, I know.

MR. TOBIAS: I object to that comment.

THE COMMISSIONER: He is only six times more difficult, that's all.

MS. KITELY: I am only asking, sir. You have indicated there were lots of these submissions made at some time, I agree with that and in preparation for those submissions I would ask that a list be prepared identifying individuals with the baby.

MR. LABOW: I have no objections to doing that, Mr. Commissioner.

THE COMMISSIONER: All right. Well, that's fine, you are the only one really affected, although, Mr. Shanahan is mightily affected.

MR. LABOW: That's true. I have no objection to setting out each child.

THE COMMISSIONER: What time could you



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have the list for us, when?

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MR. LABOW: I could have it after the

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weekend.

5

THE COMMISSIONER: After the weekend?

6

MR. LABOW: Yes.

7

THE COMMISSIONER: Well, what about
saying by Monday noon, is that too early?

8

MR. LABOW: That's fine with me.

9

MR. SHANAHAN: Yes.

10

MR. TOBIAS: That is acceptable with me.

11

THE COMMISSIONER: And Mr. Shinehoft,
somebody will tell him?

12

MR. LABOW: Yes.

13

14

THE COMMISSIONER: Well then, say by

15

Monday noon, by 2:30 Monday afternoon and at that
time, 2:30, we will know what the list is and the

16

list will be distributed to everybody and Wednesday

17

morning we will fix a date - I'm sorry, Tuesday

18

morning, I don't see any reason why we should wait

19

until Wednesday. Is that satisfactory to everybody?

20

MR. LABOW: Yes.

21

MR. BROWN: You say that the matter
will be argued on Tuesday morning?

22

THE COMMISSIONER: No, no, we will fix

23

a date on Tuesday morning. But by that time everybody

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B.9

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will know what you have, that will come on Monday noon.

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MR. LABOW: Thank you, Mr. Commissioner,
and thank you, Mr. Percival.

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THE COMMISSIONER: All right. Now,
I'd better put these dates down. Yes, I guess,
Mr. Labow, we have no problem about what the list is
to contain, I take it, it is to contain the names of
everybody and in relation to a particular baby?

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MR. LABOW: Yes, Mr. Commissioner.

THE COMMISSIONER: And Mr. Shanahan,
you are affected by that too, you have to distinguish
the particular baby with the list of all the people
you want. We will know from you, Mr. Tobias and
Mr. Shinehoft, what baby you are interested in. All
right?

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All right, thank you, Mr. Percival,
will you proceed.

CROSS-EXAMINATION BY MR. PERCIVAL (CONTINUED):

Q Mrs. Bell, I questioned you a
little bit yesterday and I forgot about something and
you will forgive me before I press on in chronological
order. But when we were talking about your relation-
ship with Susan Nelles, did from time to time you
speak with her when she was in Belleville by telephone?

A. No, not when she was in Belleville.



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Q. Did you travel down to the
Belleville area and to meet with Susan from time to
time during the time period in question and even up
to the present time?

A. Not in Belleville, no.



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Q. Well, where did you travel to?

4

A. I haven't travelled out of
the city with her.

5

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Q. All right. Have you met her
outside the city?

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A. No. If you consider
Mississauga outside.

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Q. All right. Now I want to
take your mind back to the morning then of Monday,
March 23rd, and I think this is where we ended
yesterday, Mrs. Bell, and do I take it that because
Susan Nelles had not worked that shift and you had
not communicated with her at some point in time
before you went to the meeting at 7 o'clock at Liz
Radojewski's house with Mrs. Nelles there was some
communication between you and her?

17

A. There was a phone call.

18

19

Q. All right. Who initiated that
telephone call?

20

21

22

23

A. I don't know.

24

25

Q. All right. Well, in any event
was that telephone call for the purposes of lining
up her picking you up in her car and taking you to
Radojewski's house or was it for some other purpose?

A. It was lining up the ride to



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go to Mrs. Radojewski's house.

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Q. Did you go in her car?

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A. Yes, we did.

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A. I don't believe it was in the
phone call, no.

Q. All right. Well, aside from
arranging the ride and saying that there was a
meeting, was there anything else said in the phone
call?

A. I don't know.

Q. All right.

Now what time did she pick you up?

A. I'm sorry, I can't pinpoint a
time.

Q. What time did you get to the
meeting?

A. I don't know.

Q. How long were you at the
meeting?

A. Perhaps an hour to an hour and



1
2
3 a half. Not very long.

3 Q. All right. In any event when
4 she picked you up was it some distance you had to
5 drive in her car?

6 A. I'm sorry; from my house to
7 Mrs. Radojewski's house?

8 Q. Yes.

9 A. It took us 15 minutes.

10 Q. All right. During the course
11 of the 15 minutes was it disclosed to you that one
12 of the reasons for the meeting was the forthcoming
13 coroner's inquest involving Baby Pacsai?

14 A. We discussed what had happened
15 on the weekend and that we --

16 Q. Ma'am, would you just answer
17 my question?

18 To this point in time you have told
19 the Commissioner you did not know anything about a
20 coroner's inquest; you did not know about the
21 elevated digoxin level in Baby Pacsai.

22 Was is disclosed to you for the
23 first time then in that 15 minutes that you travelled
24 to Liz Radojewski's house with Susan Nelles?

25 A. We had started to talk about it.

Q. All right. So do I take it



1
2 that is the first time you knew of a forthcoming
3 coroner's inquest?

4 A. Yes, it was.

5 Q. All right. Aside from saying
6 that there was a coroner's inquest were you advised
7 at that point of the elevated digoxin level by Susan
8 Nelles and that there was some concern about how
9 that digoxin level had become elevated?

10 A. I don't know if it was in the
11 car, if it was actually at Mrs. Radojewski's house.

12 Q. Well, when you got to
13 Mrs. Radojewski's house do I take it you knew there
14 was a coroner's inquest but did you also know that
15 Susan Nelles felt somewhat threatened because she
16 was the person on the firing line as being the
17 person who last injected digoxin into Baby Pacsai?

18 A. She had discussed at
19 Mrs. Radojewski's house about the digoxin that she
20 had given Kevin.

21 Q. I want to know whether or not
22 you discussed that prior to reaching the house,
23 ma'am?

24 A. I don't believe we did, no.

25 Q. Well, at any time has Susan
Nelles, aside from being at that meeting and you



1
2
3 heard it discussed, did she ever discuss the treat-
4 ment that she rendered to Baby Pacsai and the
5 digoxin, with you?

6 A. We had discussed Kevin at
7 that night.

8 Q. Well that --

9 A. Whether it was in the car or
10 at the meeting I am not sure.

11 Q. But she did discuss Baby Pacsai
12 with you?

13 A. In the car or at the meeting.

14 Q. All right. You see I am
15 concerned that on an earlier occasion back in
16 February, 1982 at 1688 you were asked a very direct
17 question by Mr. Magee on re-examination, line 24:

18 "Q. Did Susan Nelles ever discuss
19 Baby Pacsai with you?"

20 Your answer was an unequivocal "no".

21 Do you recall being asked that
22 question?

23 A. Yes, I see it here, yes.

24 Q. Well, why do you now remember
25 that she did discuss it with you either in the car
or at the meeting? What has --

A. It was --



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Q. What has recreated your memory?

A. It wasn't a discussion particularly with me. It was a discussion at Mrs. Radojewski's house and there was a number of people there so it wasn't directly with me.

Q. Oh, ma'am, is that the answer that you want us to accept that when you were asked the question "Did Susan Nelles ever discuss Baby Pacsai with you?", the answer "no", are you seriously suggesting that is the reason you answered in that way?

A. That's the reason.

Q. All right, ma'am.

Now when you went to the meeting it isn't because you were trying to protect her when you were giving evidence in the preliminary hearing?

A. No, it is not.

Q. It wasn't, all right.

When you went to Liz Radojewski's house that night and you were there an hour or hour and a half, there were the members of your team and Susan (sic) Trayner's team and a whole host of nurses and nursing assistants, were there not?

A. There was a number of people



1
2 there, yes.

3 Q. 14, 15, 16?

4 A. At least 10.

5 Q. At least 10? And did you know
6 when you got there that Ray Mandel and Meredith
7 Frise had been with Phyllis Trayner since 2 o'clock
8 that afternoon and they arrived together?

9 A. No, I didn't.

10 Q. Have you ever heard that
11 before?

12 A. No, I haven't.

13 Q. All right. So do I take it -
14 did you have any communication with Phyllis Trayner
15 that day from 7 o'clock till 7 o'clock when you
16 arrived at the meeting?

17 A. No, I don't believe I did.

18 Q. All right. At that point was
19 it suggested by someone at the meeting that people
20 should make up notes with respect to what transpired?

21 A. I believe --

22 Q. At the Hospital?

23 A. I believe the reference was
24 made towards the people that looked after Kevin.

25 Q. Well, ma'am, at the preliminary
hearing you referred yourself to certain notes that



1

2

you had made solely and simply dealing with Baby Cook.

3

Do you remember that?

4

A. Yes, I do.

5

Q. That is the only notes you

6

ever made?

7

A. That is correct.

8

Q. Well, at 1644 in the preliminary

9

hearing you were questioned by Mr. Cooper - do you
remember Mr. Cooper?

10

A. Yes, I do.

11

Q. And the question was:

12

"Q. I want to ask you, you made

13

up those notes (and those are the

14

notes on Baby Cook) at the suggestion

15

of someone at the meeting that you had

16

at Liz Radojewski's house?

17

A. Yes."

Is that correct?

18

A. That is correct.

19

Q. All right.

20

A. Can I --

21

Q. Well then I gather --

22

MS. KITELY: Excuse me,

23

Mr. Commissioner, the witness is trying to answer
the question.

24

25



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MR. COMMISSIONER: Yes.

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THE WITNESS: The reference was made particularly to Susan about Kevin's because if there was an inquest then she would have, if she had written it down, she would have a better recollection because it was closer to the time.

8

9

After I had spoken to the police it made sense for me to do that as well because I had heard it there.

10

11

12

MR. PERCIVAL: Q. Ma'am, you were asked about your notes in that question; not anything anybody else's.

13

14

15

A. But the reference to making notes and keeping it fresher in your mind made sense after I talked to them.

16

17

18

Q. Ma'am, I suggest to you Baby Cook's death was very graphically described and in detail discussed at that meeting at Liz Radojewski's house and that is why you made the notes.

19

20

21

22

A. I had made the notes after I talked to the police because once the police had talked to me I felt that perhaps I would need this reference at a later period.

23

24

25

Q. Do I take it there would be nothing for you to make up in relation to Baby Pacsai



1

2

because you weren't even there?

3

A. Yes, that is right.

4

Q. Right.

5

6

A. But it was just on the suggestion
that notes be made to keep it fresher in your mind.

7

Q. I see.

8

9

10

11

12

Well now, ma'am, I would like to talk
about that meeting. That particular meeting, one
thing you told us about, Susan Nelles thought that
she should get some advice from the RNAO. That is
something that you remember and have given evidence
before the Commission?

13

A. That is correct.

14

15

16

Q. And that is the only person
you can remember discussing the RNAO and getting
advice; isn't that true?

17

A. Towards Susan, that I was
present for, yes.

18

19

Q. Yes.

20

A. It was as we were leaving.

21

22

23

Q. I understand that is what your
evidence is. So that is the only person that was
talking about going to the RNAO on getting advice
that you can recall?

24

A. Well, it would be because there

25



1
2 was just Susan and myself and I wasn't working for
3 Kevin Pacsai.

4 Q. I understand that, but I am
5 talking about anybody else present at the meeting.
6 Any of the other 10, did they talk about getting
7 some advice from the RNAO?

8 A. Not while I was there.

9 Q. Well, ma'am, I suggest to you
10 getting advice from the RNAO went far further than
11 Kevin Pacsai and Susan Nelles. It went further to
12 the fact that you nurses at that Hospital at that
time were wondering what your rights were.

13 A. As regards to an inquest.

14 Q. What was happening. The keys
15 being taken away from the narcotics cupboard. The
16 supervisors making sure that medication was given
17 and given at a certain time and in a certain strength.
18 Strange and unusual policies were being implemented
19 by the Hospital which were so alien to you that
you couldn't understand it and wanted some answers.

20 A. That is right.

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23 ----
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Q. Isn't that why somebody was going to the RNAO?

A. It is our professional organization.

Q. Well ma'am, whether it made sense or not, wasn't that discussed at the meeting?

A. And it was discussed particularly to Susan as we were leaving.

Q. No, but it was discussed at the meeting as well that somebody should get some guidance from the RNAO about that, quite apart from Susan going, isn't that true?

A. I don't know. The only particular time I know of was as we were leaving it was made reference to Susan, Mrs. Radojewski made reference that definitely that Sue should seek some ideas from the RNAO.

Q. Did Liz say she was going to?

A. I don't know.

Q. Were the deaths of Baby Cook and Miller discussed; I mean, I think you said earlier in your evidence before this Commission the events of the weekend were discussed. Do I take it the events of the weekend included the deaths of Baby Miller and Baby Cook?



D.2

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2

A. Yes, it did.

3

4

Q. And did you discuss the fact that Dr. Jedeikin was taking blood samples after the death?

5

6

A. I believe we did, yes.

7

8

9

Q. I guess there was some thought that maybe there might be some connection between digoxin being locked up and nursing supervisors looking at medication and two more deaths?

10

11

12

A. I didn't connect the taking of the blood samples by Dr. Jedeikin with the digoxin being locked up.

13

14

15

16

17

Q. Did it finally dawn on you as a result of this meeting, the Kevin Pacsai inquest, the high digoxin level, digoxin being locked up, two new baby deaths, that maybe there was a connection between digoxin and the series of escalating baby deaths at The Hospital for Sick Kids?

18

19

20

A. No, it did not.

21

22

Q. Ma'am, at any time up to this moment, has that ever occurred to you?

23

24

25

A. It occurred to me when it was written in the paper.

Q. When was it written in the paper that it finally dawned on you?



D.3

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A. Well, that the connection with digoxin and Susan being arrested for those murders, that digoxin was connected with the murders.

Q. And do I take it that then the first time it dawned on you was Wednesday, March 25th when she was arrested and it was in the paper?

A. Yes, it did.

Q. Now ma'am, at that meeting on March 23rd was there discussed the fact that consistent answers would have to be given to parents why digoxin testing was being made on all babies; do you remember that being discussed?

A. It was felt that parents should be informed.

Q. Why their baby was being tested for digoxin when they were not given digoxin, wasn't that discussed?

A. To some extent.

Q. And was it discussed that baby deaths may have occurred where no digoxin had been prescribed, was that discussed at that meeting?

A. No, it wasn't.

Q. Now ma'am, I gather at this particular point you are certain beyond doubt that it was then, either in the ride to Liz Radojewski's



D.4

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house, or at the meeting, that you knew about the coroner's inquest and that you knew about the 25 level of digoxin in Pacsai?

5

A. I didn't know the exact level.

6

Q. You knew it was an elevated level?

7

A. Yes, I did.

8

9

Q. The only elevated level that I gather you knew before that was involving Baby Estrella, and you said something about 10?

10

A. That came to mind, yes.

11

12

Q. Are you sure the numbers never came up at that meeting?

13

A. They could have, but I don't recall the number 25.

14

15

16

Q. Now ma'am, you said you were there an hour, an hour and a half, was Susan talking about getting a lawyer?

17

18

19

A. She discussed the situation with her roommates who were in the process of going to school for law.

20

Q. When did she tell you that?

21

A. She told everyone in the room.

22

Q. So was that the first time that came up at the meeting?

23

A. I think so, yes.

24

25



D.5

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Q. Well then, you went out the door, and did Susan then take you directly home, or did you go somewhere else?

A. I went directly home.

Q. Did you discuss, in the 15-minute ride back to your apartment, what had transpired at the meeting and what was transpiring at the Hospital?

A. We had discussed that we didn't have any answers, and that when the inquest came we would just have to deal with it.

Q. And did Susan say she was going to write down what happened about Kevin Pacsai as a result of the suggestion that you heard that night at the meeting?

A. I don't think she said it in the car, but I think she said she was going to write things down.

Q. And do I take it from what you are saying that all she was concerned about at that particular moment in time was Baby Pacsai?

A. Yes.

Q. And was it anticipated - you would start shift as I understand on long days commencing Wednesday at 7 a.m. Wednesday, March 25th?

A. That's right.



D.6

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Q. When you left Susan Nelles at night, was it discussed whether or not the Trayner team would be back at work on Wednesday morning?

A. I believe I asked her if she knew she was going to be back on Wednesday.

Q. What was her response?

A. She didn't know.

Q. Was the fact that the Trayner team had been taken off and your team had not been a matter of discussion at that meeting?

A. I believe it was, yes.

Q. Were some of you saying, well, why did they get the night off with pay and we don't; and why do they have more stress than we, was that something that was discussed at the meeting?

A. Yes, it was.

Q. Did anybody have an answer?

A. No.

Q. Did Mary Costello have an answer?

A. No.

Q. Did Liz Radojewski?

A. No.

Q. And do I take it that your evidence is that there was no reference whatsoever to police investigation, or coroner's investigation,



D.7

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2

by investigators, at that meeting?

3

A. That's right.

4

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Q. Now ma'am, you had Tuesday,
March 24th off. I want to know whether or not you
had any communication, oral communication, whether by
telephone or face-to-face with Susan Nelles, or
Phyllis Trayner at any time, on Tuesday?

8

A. Yes, I did.

9

Q. Who did you speak to?

10

A. Susan Nelles and I.

11

Q. Did you meet?

12

A. Yes, we did.

13

Q. Where did you meet?

14

A. We met at my house and then we
went out.

15

Q. When was that?

16

A. On the Tuesday.

17

Q. When, morning, afternoon,

18

evening?

19

A. It was late morning into the
afternoon.

20

Q. Now that particular - you have
mentioned Susan Nelles and I will get to that; did you
have any communication with Phyllis Trayner that day?

22

23

A. No, I didn't.

24

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D. 8

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Q. And had this been preplanned
that she would come over to your place the night before?

A. It was, it was from Monday.

Q. And what was the purpose for
coming over on Tuesday as far as you were aware on
the Monday night?

A. It was to take my son to the zoo.

Q. And she picked you up around noon?

A. Before noon I believe.

Q. You and your son?

A. That's right.

Q. Did you ask her whether she had
been to see the RNAO at that point?

A. I think I asked her, yes.

Q. What was her response?

A. That she had contacted their
lawyer, or she was trying to contact them, I am not
sure.

Q. Now, aside from that discussion
about the RNAO that I have just asked you about, how
long were you with her that day?

A. A number of hours.

Q. How many hours, ma'am?

A. Five.

Q. During the course of five hours



D.9

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were the events at the Hospital, including the
escalating baby deaths, the forthcoming coroner's
inquest, the digoxin being locked up and her working,
in any way discussed in five hours?

6

A. No, they weren't.

7

8

9

10

Q. Do I take it that you are asking
this Commission to believe that the bizarre happenings
at this Hospital, and what had transpired, was not
mentioned or discussed during the course of five
hours with Susan Nelles on that Tuesday?

11

12

A. I didn't feel it was appropriate
to discuss this sort of thing in front of my son.

13

Q. How old was your son?

14

A. Three.

15

Q. Do you think he would really
understand at the age of three?

16

A. I think he would.

17

Q. I see.

18

19

20

21

A. I think he would, once you
started to discuss it I think he would understand, we
were upset and I think it was an inappropriate thing,
I generally don't discuss that sort of thing with my
son.

22

23

Q. Ma'am, do I take it then you
didn't discuss it in five hours?

24

25



D.10

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2

A. No, I didn't.

3

Q. And you fully expected to start

4

work at 7 o'clock the next morning?

5

A. That's right.

6

Q. And Susan Nelles did too?

7

A. I don't know if she knew she
hadn't heard, I'm not sure.

8

Q. Did she expect to be told whether

9

to come back, was that the impression she was giving
you?

10

11

A. I don't know if she was told

12

that day or not, I am not sure.

13

Q. I want to know what was the

14

impression you had got from her on Monday, whether or
not she was going to be back on Wednesday, or whether
she had to be called to come back, or whether she
was going to go as a matter of course?

15

16

17

A. I believe she thought she was

18

going to be back on Wednesday.

19

Q. Then after being with her for

20

five hours you went home?

21

A. Yes, I did.

22

Q. Did you have any further

communication with her?

23

A. No, I didn't.

24

25



D.11

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2

Q. By telephone?

3

A. No.

4

Q. Did you have any further

5

communication with her until you went to the Hospital

6

at 7 o'clock on Wednesday morning?

7

A. No, I didn't.

8

Q. Did you have any further

communication with Phyllis Trayner?

9

A. No.

10

Q. Did anything else develop, any

11

other communication from any source in that time

12

period before you went back to work at 7 o'clock on

13

the Wednesday morning?

14

A. No.

15

Q. Did Liz Radojewski phone you?

16

A. No, she didn't.

17

Q. Mary Costello?

18

A. No.

19

Q. So do I take it when you went

20

back in on Wednesday morning at 7 o'clock you fully

21

expected to continue working under the rather unique

nursing circumstances that you have already discussed?

22

A. That's correct.

23

Q. Were you surprised when you

24

found that the Trayner team was not on the corresponding

25

25



D.12

1

2

shift with you on 4A?

3

A. That's right.

4

Q. And what did you do when you
found that out?

5

A. What do you mean, what did I do?

6

(2) Q. Did you ask anybody, how come
they are not back?

7

8

A. I had asked, yes.

9

Q. Who did you ask?

10

A. The head nurse I believe.

11

Q. Who was the head nurse?

12

A. Either Mrs. Radojewski or Miss
Costello.

13

Q. What was the response?

14

A. That they felt they were still
under the stress and that they needed the time off.

15

16

Q. And were you content to accept
that?

17

18

A. Well, I had to get back to work.

19

Q. I gather you were content to
accept it?

20

A. Yes, I was.

21

Q. Was there any further discussion
then about the fact the nursing team, the corres-
ponding nursing team, was not in that morning?

22

23

24

25



D.13

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A. No, there wasn't.

3

Q. Did you discuss it with any
members of your team?

4

5

A. I believe we were all there
asking, because the morning that we went in part of
my team was split up to do the work on 4A, I was the
team leader on 4A that day so --

6

7

8

Q. I am sorry?

9

A. -- so we were all present.

10

11

12

13

Q. Was there any discussion on that
day with respect to what had come back from the RNAO
about your rights and what was happening at the
Hospital; did Liz Radojewski say anything, did Mary
Costello say anything?

14

A. No.

15

16

17

18

Q. I believe your evidence to
this Commission so far is that you did not hear any-
thing about the arrest until some time at two or three
in the afternoon?

19

A. On that Wednesday, yes.

20

21

Q. And that was communicated to you
by Mary Costello and Liz Radojewski and Anne Evans?

22

A. Yes.

23

24

25

Q. What did they do, did they have
a meeting and tell you what happened?



D.14

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2

A. They called us into the office.

3

Q. Who is "they" and who is "us"?

4

A. Mrs. Radojewski, Miss Costello,

5

they shared an office and Miss Evans was with them,

6

they have an office on the 4th floor and they called

7

the people that were working on 4A/B, aside from the

8

relief that we had that day, they called us into the

9

office and they just said the statement, and I am not

10

sure who actually said it but they said Susan Nelles

was arrested for the murder of Justin Cook.

11

Q. Now ma'am, up until the time

12

that that was communicated to you, had you had any

13

contact in any way, shape or form, with any of the

14

nurses, any of the nurses who had been told to stay

off that day on the corresponding 4A shift?

15

A. No, I didn't.

16

Q. In other words, had any of them

17

phoned in, Phyllis Trayner, Susan Nelles, Brownless,

18

Sui Scott, Mrs. Christie?

19

A. No.

20

Q. Were you aware of the fact

whether they had phoned in?

21

A. I had understood some time later

22

that Phyllis had tried to call.

23

Q. Phyllis had tried to call when?

24

25



D.15

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A. To call on that Wednesday.

3

Q. When you were on shift?

4

A. Yes.

5

Q. And who did she speak to?

6

A. I don't know, she didn't get through, I don't know who she spoke to.

7

Q. Who told you that?

8

A. Phyllis did.

9

Q. When did she tell you that?

10

A. It was some time later.

11

Q. What do you mean by later, next day, a week later, a month?

12

13

A. I don't believe it was the next day. I believe it was perhaps the next time that she was on.

14

15

16

Q. How long was she off after the arrest?

17

18

A. I'm not sure, the Wednesday and Thursday at least.

19

20

Q. So she didn't work Wednesday, did she work the next day, the Thursday?

21

A. No, she didn't work the Wednesday or the Thursday.

22

23

Q. And did she work on the Friday?

24

25

A. No, she didn't.



D.16

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Q. It was some time within a week
following the arrest, is that right?

4

A. Yes.

5

6

7

Q. Now, ma'am, after you heard about
the arrest of Susan Nelles in relation to Baby Cook,
did you ask some questions as to what the allegations
were made against your friend?

8

9

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A. I didn't understand why.



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2

Q. Did you ask some questions?

3

A. I was shocked at the murder,

4

I don't think I asked questions, no.

5

Q. Did you ask anybody about the

6

questions? Did you ask any questions of anybody,

7

aside from being told that because it was big news
in Toronto on that day?

8

A. I was devastated by the news.

9

Q. I can believe that.

10

A. I didn't ask any questions, I

11

just couldn't.

12

Q. Well, when did you start asking

13

questions? When did you start asking questions about

14

this charge against your friend involving a baby that

15

you had seen on your Ward 4A/4B and seen die on the

early morning hours of March 22nd?

16

A. I asked myself questions of how

17

they came to the conclusion that these children died.

18

• Q. Aside from asking yourself ques-

19

tions, ma'am, when did you start asking questions

20

to anybody else?

21

A. I don't know, I couldn't tell you.

22

Q. Now, ma'am, Susan Nelles was in

23

custody from March 25th and then she was out on bail,

24

my understanding was April 1st. Did you have any

25



1

2

communication with her during that time period?

3

A. No, I didn't.

4

Q. When was the first time you had
any communication or discussion or contact with Susan
Nelles after she was released on bail?

5

6

A. I can't give you an exact date.
It was after she was released on bail.

7

8

Q. Are we talking within a week?

9

A. I don't know.

10

Q. Well, ma'am, at some point in time
she picked you up near the hospital, didn't she?

11

12

A. That's right.

13

Q. Well, are we talking within a
month?

14

A. It would have to be some time
between March and July.

15

16

Q. Between when, March and July?

17

A. That's right.

18

Q. And was that the first time that
you ever saw her or talked to her subsequent to your
learning of her arrest on this charge?

19

20

A. When she picked me up at the
hospital?

21

22

Q. Yes.

23

A. No, I believe I had spoken to her

24

25



1
2 before that.

3 Q. All right.

4 A. And she ---

5 Q. Well, now, tell me ---

6 MS. KITELY: The witness tried to give
7 an answer, sir.

8 THE WITNESS: And she didn't exactly
9 pick me up at the hospital. We arranged a meeting
10 place sort of a block away.

11 MR. PERCIVAL: Mr. Commissioner, you
12 will forgive me, but I didn't hear anything and I didn't
13 see anything and obviously Ms. Kitley knew what she
14 was going to say.

15 MS. CRONK: That's unfair.

16 MS. KITELY: Mr. Commissioner.

17 MS. CRONK: Mr. Commissioner, that's
18 unfair, the answer had started.

19 THE COMMISSIONER: No, I think like you
20 I didn't hear what she said but I think she had
21 started a word or two and I think that Ms. Kitley
22 was in order to ask that she be allowed to
23 answer the question.

24 MS. KITELY: Mr. Commissioner, could
25 I ask Mr. Percival to withdraw that comment. It was
quite clear to Ms. Cronk and I what was happening.



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2

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THE COMMISSIONER: You can ask him but I won't require that because it is on the record what he said.

5

MS. KITELY: Thank you, sir.

6

7

8

MR. PERCIVAL: Now, ma'am, did you after learning about Susan Nelles being arrested that afternoon, you completed the shift and you finished at 7:00.

9

A. On the Wednesday, yes.

10

11

Q. Yes. Did you pick up the phone and have some communication with Phyllis Trayner?

12

A. No, I don't believe I did.

13

Q. When did you first see or talk to Phyllis Trayner after that?

14

15

A. I don't think it was until after she was back at work, I'm not sure.

16

17

18

19

20

Q. All right. Well, this was a friend of yours who had been arrested on a charge of murder and you had been present, Phyllis Trayner had been present. The first time you had communication with Phyllis Trayner, are you going to suggest to us that you never discussed it?

21

22

A. I can't tell you an exact time when I did start discussing it with her, yes.

23

24

25

Q. But, no, the very first thing that



1
2 you said to Phyllis surely has to be, isn't that
3 terrible about Baby Cook and isn't that terrible
4 about Susan Nelles. I mean, wouldn't that be the very
5 first thing that you would say?

6 A. We had discussed the shock of,
7 you know, someone that we had worked with being
8 arrested for murder.

9 Q. In any event, ma'am, the very
10 next day she wasn't working, which is the Tuesday,
11 the 26th.

12 A. The Thursday.

13 Q. Thursday the 26th, thank you.
14 And on that particular day you say Phyllis Trayner
15 wasn't working but that's the first day that you had
16 an interview with the police officer.

17 A. That's right.

18 Q. Did you know you were going to be
19 interviewed by the police officer or suspect it the
20 day before when you learned about the arrest?

21 A. No, I didn't.

22 Q. So, do I take it you came in the
23 next morning working a long day, starting at 7:00
24 and at some point in time during that morning you
25 were asked to go and see two officers.

A. Mrs. Radojewski had come up to



1

2

me, I believe it was shortly between, around noon and
said that the police would like to talk to me.

3

4

Q. All right. I gather you knew
what they were going to talk to you about.

5

6

A. About Justin Cook.

7

8

Q. Yes. So, do I take it then that
at that point in time you wanted to help them?

9

10

A. Yes.

11

12

Q. All right. And you wanted to tell
them everything that you could possibly remember about
your relationship and what you had observed and what
you had done with Justin Cook.

13

14

A. I had the intention of going
there and cooperating.

15

16

Q. All right. Well, at some point
in time did you change that intention?

17

18

A. I don't believe it was until
after the preliminary hearing.

19

20

Q. All right. So, do I take it that
you had good intentions then right up until the end
of the preliminary hearing?

21

22

A. Yes.

23

24

Q. All right. Certainly you felt
that since -- you didn't feel threatened, by the way,
you didn't feel implicated in any way with the series

25

26



1

2

of baby deaths?

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A. I felt uncomfortable with the whole situation.

5

6

Q. I understand you feeling uncomfortable but did you feel that you were personally being implicated?

7

8

A. No.

9

10

11

Q. All right. So, do I take it that your feelings when you went to see the officers, you knew you were going to be interviewed but in your capacity as a witness or a potential witness.

12

13

A. I had gone there with the intention to discuss Justin Cook, that's what I was told.

14

15

Q. Did you have a little bit of misgivings because the woman that was charged, the nurse that was charged was a good friend?

16

17

18

A. I had a concern for her.

Q. All right. But did you also have a concern for the parents of Baby Cook?

19

20

21

22

23

24

25

A. Yes, I did.
Q. And did you at that particular moment in time start to reflect back on the morbidity and the mortality meetings that had gone on over the course of nine months and the increasing and escalating baby deaths that had occurred, ten in less than two



1

2

weeks?

3

A. No.

4

Q. You never reflected on that?

5

A. No, I didn't.

6

Q. All right. When you went in to

7

see Sergeant Sangster and Constable Murray the questions
solely related to Baby Cook, did they not?

8

A. Yes, they did.

9

Q. You have already told us that.

10

But surely at that particular time you knew that at

11

least so far as Baby Cook was concerned there was some
alleged utilization of the drug digoxin with that baby.

12

13

A. They had made specific reference
to digoxin.

14

Q. Did that surprise you?

15

A. Yes.

16

Q. Well, hadn't you been told the

17

day before that it was Baby Cook and the digoxin?

18

A. Well, it just reinforced that.

19

Q. All right. So then there was no

20

doubt in your mind that it was a question of some

21

suggestion by someone that the death of Baby Cook was
caused by digoxin administered allegedly by Susan

22

Nelles.

23

A. Yes.

24

25



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Q. All right. And at that particular meeting you knew, did you not, that Justin Cook had never been on digoxin as far as you were aware during the 24 or 30 hours that he was alive in that hospital.

A. That's right.

Q. All right. Well, then, do I take it then that you knew at the time you met with these officers that someone, allegedly Susan Nelles, had administered digoxin to this baby which was clearly unauthorized?

A. I didn't really think of it that way, no.

Q. All right. Well, do I take it that the means or the alleged means of death of Justin Cook had something to do with the administration of some medication; you knew that?

A. At the time.

Q. And presumably digoxin?

A. Yes.

Q. All right. And is there any reason at that meeting with Sergeant Sangster and Constable Murray that you did not reflect back upon the early morning hours after Justin Cook died when you overheard that conversation between Marie Mandal and Susan



1

2

Nelles about 'six out of seven ain't bad'?

3

A. I did not think of it, no.

4

Q. You didn't volunteer it, did you?

5

A. It didn't come to my mind.

6

Q. Well, didn't you want to help those officers try to find out what was going on and what had gone on in that hospital?

8

A. Yes, I did.

9

Q. Well, you didn't mention that.

10

Did you mention the fact that there had been this meeting at Liz Radojewski's house on Monday night?

11

A. I didn't say that, no.

12

13

Q. No. Well, what I am getting at, ma'am, do I take it that you only answered when they asked the questions?

15

A. I answered their questions.

16

17

Q. But one of the problems that people have when they don't ask the right question they never get an answer and I am wondering why you wouldn't be a little bit more helpful at that meeting about trying to assist the officers in solving that rather bizarre death.

18

19

20

21

22

A. I did not go there with an intention of not being helpful. I had told them what I could recall from that night and the meeting on Monday

23

24

25



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night had to do with all the stress levels. I

3

didn't feel it had anything to do exactly with Justin

4

Cook, what had gone on that night.

5

Q. Well, ma'am.

6

MS. KITELY: Might the witness be permitted to answer the question, sir?

7

MR. PERCIVAL: Ma'am, Justin Cook was ---

8

THE COMMISSIONER: Just a moment, I think you are right. Did you have something further you wanted to say?

10

11

THE WITNESS: I am sorry, I have lost my train of thought.

12

13

THE COMMISSIONER: Well, there you are. I know it is a frustration that counsel have when the witness does not appear to be answering the question but I think you will have to let her answer in these cases, otherwise it is going to be unfair to her. That's the way she wants to answer questions. You must let her answer the questions that way.

17

18

19

MS. KITELY: Thank you, sir.

20

21

MR. PERCIVAL: Q. In any event, Mrs. Bell, do I take it that -- I thought we had gone through this -- but clearly the death of Justin Cook had been discussed at the March 23rd meeting.

22

23

24

25

A. Not in any great detail. But the



1

2

meeting of that Monday night just didn't come to my
mind.

3

4

5

6

7

Q. When was the last time you had
a meeting of all the staff on 4A and 4B, a rather
quickly called meeting outside the hospital, in the
course of the 12 months that you had been on that ward?

8

9

A. I don't know.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q. Well, ma'am, I suggest to you ---
MS. KITELY: Mr. Commissioner.

THE COMMISSIONER: There is no meeting
of minds between counsel and witness. The rules are
you are entitled to answer a question -- no, I'm sorry.
The rules are that you are to answer the question.
You are also allowed to qualify the question, if you
want to. So that any time you feel there is a
qualification to the answer you have given you are
entitled to give it. The fact that Mr. Percival
interrupts you in the middle of it does not mean that
he is trying to cut you off, what he is trying to do
is get the answer to the questions he is posing if he
thinks the initial answer is not good enough. But if
you think that you have a full answer to make you are
entitled to make it and you mustn't let him stop you.

Now, the reason, unfortunately, is
that he speaks louder than you do and the result is



1
2 that sometimes I just hear him going on and I don't
3 hear you trying to make that connection but Miss
4 Kitley seems to be younger and healthier than I am.
5 But you try to give your full answer all the time.

6 THE WITNESS: Yes, sir.

7 THE COMMISSIONER: Mr. Percival, you are
8 not as old as I am, but you may have the same problem
9 with hearing, but at any rate, go on.

10 MR. PERCIVAL: No, I'm sorry, Mr.
11 Commissioner. My difficulty is this. The question is
12 answered which does not seem to be responsive to the
13 question and then there is a delay and I start to go
14 back at it and then the qualification comes.

15 THE COMMISSIONER: No, I understand
16 what is happening but we are going to have to try and
17 work it out and if I could just ask you perhaps to
18 pause for an instant before you go at her.

19 MR. PERCIVAL: Thank you.

20 THE COMMISSIONER: I understand what your
21 problem is but if you would just pause briefly. You are
22 quite right, there is a pause and then it is continued
23 and Ms. Kitley is catching it every time but it would
24 be better if we didn't have these interruptions
25 because the witness has by this time forgotten what
she was going to say.



1
2 MS. KITELY: Might I simply comment,
3 sir. In my submission that's the demeanor of the
4 witness in that she answers questions in a particular
5 way and her demeanor hasn't changed for three days
6 but Mr. Percival has only just arrived on the scene
7 and perhaps if he had been here earlier he would have
8 appreciated the way she has given her evidence all
9 along.

10 MR. PERCIVAL: Mr. Commissioner, might
11 it be a useful time to have our mid-morning break and
12 then Ms. Kitley may be able to help the witness
13 answer the questions properly. Thank you.

14 MS. KITELY: Mr. Percival is continuing---

15 MR. PERCIVAL: If I continue this, my
16 lord, I am going to get mad and I don't like getting
17 mad.

18 THE COMMISSIONER: Well, obviously we
19 should have a break but we will just have a break of
20 about five minutes because we can't carry on until
21 1:00. So, we will just take five minutes now and then
22 we will go back at it again.

23 ---Short recess.
24
25



EMT/ak

1

2

--- On resuming.

3

THE COMMISSIONER: Yes, Mr. Percival.

4

MR. PERCIVAL: Q. Ma'am, when we

5

left off we were talking about the meeting of

6

March 23rd, and I was asking you had you ever

7

attended a more unusual meeting in all your life?

8

A. It was unusual circumstances.

9

Q. Well, was it the most unusual

10

meeting of nurses in the Hospital for Sick Children

11

outside the Hospital that you had ever attended?

12

A. Arising out of very unusual
circumstances.

13

Q. Quite.

14

A. Yes, it was.

15

Q. Well, if your good friend Susan

16

Nelles had been arrested and a charge of a baby -- one

17

a shift that you had been on and that there had been

18

a meeting when that baby's death had peripherally

19

been discussed, why wouldn't you volunteer that

20

information to those officers?

21

A. It was unusual to me, but that
was to me, I didn't feel there was a connection there.

22

Q. Now, ma'am, when Sgt. Sangster

23

and Constable Murray asked you questions, they asked

24

you to tell them all that you could recall that

25



1
2
3 occurred involving your personal observations of
4 Baby Cook and the other nurses on that ward that
5 evening. Isn't that true?

6 A. I believe they had asked what
7 had gone on the night that Justin Cook died.

8 Q. All right. So do I take it
9 that meant to you you are supposed to tell him as
10 much as you possibly can because you wanted to help
11 them?

12 A. That's right.

13 Q. And whether it implicated
14 Phyllis Trayner or Susan Nelles you were going to
15 make sure that you co-operated to the fullest?

16 A. Yes.

17 Q. I see. Now, ma'am, I am not
18 going to go through it because it is lengthy, but
19 you have seen it and you signed it, but the last
20 two questions that were specifically put to you:

21 "Q. On those three occasions that
22 you were in the room did you see
23 Susan Nelles or anyone else administer
24 any drugs to Justin Cook?

25 A. No.

Q. Did you administer any drugs
and in particular any digoxin to



1

2

"Justin Cook?

3

A. I didn't administer any drugs
to him - no."

4

5

Now those were questions put to you
by Sgt. Sangster and Constable Murray, and you gave
your answer.

6

7

A. That is right.

8

9

Q. All right. Was the answer
true?

10

A. Yes.

11

12

Q. Do I take it then that you
realized from the tenor of the question that they
weren't just looking at Susan Nelles administering
drugs to Justin Cook: they were saying anyone else?

13

14

15

A. They had made that reference,
yes.

16

17

Q. I beg your pardon?

18

19

A. They had made that reference,
yes.

20

21

Q. All right. I take it they
were trying to find out whether it might be someone
else administering medication to Justin Cook?

22

23

A. I believe they wanted to know
what had gone on the night that Justin Cook died.

24

25

Q. All right. And you tell them



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all that you could recall?

3

A. At that time, yes.

4

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A. That is right.

Q. All right. In any event,

ma'am, you continued your shift on March 26th, and then on Friday, March 27, there were three additional charges laid involving Baby Estrella, Baby Pacsai and Baby Miller. And you were aware of that, were you not?

A. Through the news, yes.

Q. That was on Friday. Did you work the Friday?

A. No, I didn't.

Q. All right. Did you realize at that particular time when you heard that certainly you didn't have any information to give anybody with respect to Pacsai because you were on holidays?

A. That is right.

Q. And did you realize at that particular point that you had been present on the shift when Allana Miller had died?



1

2

A. Yes, I was working.

3

Q. And did you also then realize

4

that you had also been around when Baby Estrella had

5

died?

6

A. Yes, I was working.

7

Q. Yes. And did you think at

8

that time Susan Nelles wasn't working the shift

9

that Baby Estrella died?

10

A. I tried to place her when

11

Janice Estrella had arrested and I couldn't place

12

her.

Q. Did you go and look at the

13

WIN sheets?

14

A. No, I didn't.

15

Q. At any time did you ever look

16

at the WIN sheets about that?

17

A. No, I didn't.

18

Q. All right. Well then, at some

19

point in time you found out that Susan Nelles was in

20

fact not working when Baby Estrella died?

21

A. That she definitely wasn't

22

working ?

Q. Wasn't working on the shift

23

when Baby Estrella died.

24

A. I found out some time later.

25



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Q. Yes. And you found out some time later - are we talking about two or three weeks later?

A. No. Quite a bit later.

Q. Well, did you find out before you were - the next interview that you had with the police on April 24th when they talked to you about Miller?

A. No.

Q. Well, I suggest to you and I think that you were somewhat vague, and maybe justifiably so, but you were the one that said on earlier evidence before this Commission that you were the one that brought up Estrella at the time you were being questioned by Constable Murray about Miller.

Do you remember saying that?

A. I wasn't sure if it was the time I had spoken to them --

Q. Well --

A. -- about Allana Miller or whether it was the time that we discussed Janice Estrella. I think it was the time that we were discussing Janice Estrella.

Q. All right. So that was again



1
2 another month later? To your recollection?

3 A. Whatever the date was.

4 Q. All right. Well, in any event
5 then you knew on the Friday, March 27th, that there
6 were four charges of murder against Susan Nelles,
7 and you knew that you had certain relevant informa-
8 tion about Baby Miller.

9 You put some notes in about what you
10 had recalled about Baby Cook and I think your
11 evidence is that you prepared them after the police
12 interview?

12 A. Yes, that is right.

13 Q. On March 26th. Was it that
14 night?

15 A. That is right.

16 Q. All right. Well then, the
17 next day when you found out about Baby Estrella
18 and Baby Miller, I gather you probably thought the
19 police would be back asking you about those two.

20 A. The thought didn't cross my
21 mind, no.

22 Q. Didn't cross your mind, and
23 it didn't cross your mind that you should perhaps
24 prepare corresponding notes for those babies?

25 A. I couldn't see going over -



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5

because when I had read the notes that I had done over Justin Cook they weren't that good. There were no times or anything. Really it was just a rambling on of the night.

6

7

8

9

Q. What I am getting at is that at any time did you ever try to put down in writing what you recalled about the events that transpired on the night Allana Miller died?

10

11

12

13

A. No, I didn't.

14

15

16

17

Q. All right. So you knew the charges on March 27th involving three additional babies, and I gather without question you knew that digoxin was involved?

18

19

20

21

22

23

24

25

A. Yes.

Q. And you knew the allegation at least of the police and the Crown was that Susan Nelles had administered digoxin to these babies causing their death.

A. Something to that effect, yes.

Q. All right.

Do I take it that at that point without questioning you knew that there was something to do with baby deaths and digoxin and Susan Nelles?

A. That is correct.

Q. All right. When Nurse Trayner



1
2 came back the following week did you talk to her
3 about the events that had transpired involving
4 Baby Miller because you and she were both there
5 with Susan Nelles?

6 A. We hadn't discussed anything
7 specific about that night, no.

8 Q. No, but didn't you say to
9 yourself "Gee, I guess the police are going to be
10 eventually coming to see me about Baby Miller and
11 you were there, Phyllis. What happened? Let's go
12 over the sequence. I want to be sure that I am going
to be helpful to the police."

13 Did you do that?

14 A. No, we didn't.

15 Q. At any time did you talk to
16 Phyllis Trayner up until the time you were again
17 interviewed on April 24th by Constable Murray again,
18 did you discuss what had transpired with Phyllis
Trayner?

19 A. I'm sorry, could you repeat
20 the question?

21 Q. At any time up until April
22 24th when you were again interviewed by Constable
23 Murray, did you discuss with Phyllis Trayner the
24 events which had transpired on that night when
25



1
2 Allana Miller died?

3 A. We hadn't discussed the
4 specific events, no.

5 THE COMMISSIONER: Sorry, I missed
6 that. We didn't?

7 THE WITNESS: We didn't discuss
8 anything specific about Allana Miller.

9 MR. PERCIVAL:Q. Well, did you at that
10 time say "Phyllis, I didn't put any digoxin. Did
11 you administer any digoxin?" Did you ask her?

12 A. No, I didn't.

13 Q. Did you ask her "Well, did you
14 ever see Susan Nelles giving digoxin that day?"

15 A. No.

16 Q. Did you say to Phyllis Trayner
17 "Well, you were looking after her for a while.
18 Maybe it happened when Susan Nelles was down with
19 Baby Cook." Did you say that?

20 A. No.

21 Q. Did you remind Phyllis Trayner
22 that you had seen her putting a 3 cc syringe of some
23 medication into the buretrol?

24 A. No.

25 Q. Do I take it that that didn't
cross your mind?



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A. That is right, it didn't
cross my mind.

4

5

6

7

Q. Or you weren't prepared to
consider that there might be someone else, another
friend, that might be implicated involving that
baby's death?

8

A. That didn't cross my mind.

9

Q. I see.

10

I gather, ma'am, that you have never
been involved in any murder investigations before?

11

A. That is correct.

12

13

14

15

16

17

Q. So this is the first murder
investigation and the first, quite apart from the
bizarre circumstances that had occurred over nine
months and 10 baby deaths in two weeks and four
murder charges, all of these events were rather
traumatic?

18

A. Yes, they were.

18

19

Q. But it never crossed your
mind?

20

A. What didn't cross my mind?

21

22

23

Q. The fact that you had seen
Phyllis Trayner administer some medication that
night to Allana Miller?

24

A. No.

25



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Q. All right, ma'am.

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7

Do I take it then that you knew when the arrest had taken place or the three further charges were laid you felt reasonably certain that an officer was going to talk to you about Baby Miller?

8

A. No, I didn't.

9

10

Q. You didn't? So do I take it when Constable Murray called on April 24th that came as a bolt out of the blue?

11

12

A. I wasn't really surprised. I was there but - before that.

13

14

Q. Did he come and see you at the Hospital?

15

16

A. The meeting took place at the Hospital, yes.

17

18

Q. I don't understand that. Did he phone you first?

19

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21

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23

A. I believe it was arranged through the Hospital that - I don't know who arranged it personally, but someone from the Police Department had arranged it with either head nurse and either a note had been left or it had been discussed with me by one of them. I am not sure.

24

Q. All right. I suggest to you,

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ma'am, that you had some forewarning. It just didn't happen that you arrived one day at the Hospital and you went to the meeting?

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A. No. That is right.

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Q. All right. So do I take it you knew a couple of days ahead of time that an officer wanted to talk to you, and did you presume at that time that he probably was going to talk to you about somebody else other than Cook?

10

11

A. Yes, but I don't know if it was a couple of days before.

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Q. All right. So do I take it that at least again you wanted to be helpful to the officers: you felt you didn't know anything about Pacsai and you knew that probably the discussion was going to be about Estrella and Miller, two babies of which you had some knowledge?

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A. Yes.

Q. All right.

Now again when Constable Murray came to see you on April 24th of 1981 I put to you that he said "I want you to tell me all that you can recall occurred on the ward when Baby Miller died."

A. Yes.

Q. And it was that general type



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2
3 of a question?

4 A. I believe it was, yes.

5 Q. All right. And you wanted to
6 help him and you wanted to give him all the informa-
7 tion you could recall?

8 A. That is right.

9 Q. Isn't that true? And you knew
10 that Constable Murray I gather was not someone that
11 was trained in medical and nursing terminology and
12 health care?

13 A. I didn't believe he was, no.

14 Q. So do I take it then that you
15 felt that quite apart from him waiting to ask the
16 necessary questions, you wanted to volunteer informa-
17 tion because you knew you probably knew more than
18 he knew about health care and caring of babies and
19 heart problems?

20 A. I felt that when I went over
21 the events of that night that Allana died that I
22 would try and put it in non-medical terms.

23 Q. Yes. Well, what I want to
24 know is - what I am getting at, ma'am, is this: you
25 wanted to help him but you weren't going to wait
until he asked the magic question. You were going
to volunteer as much information as you could because



1
2 you knew much more than he ever knew?

3 A. I wanted to, when I had gone
4 over the night's events, tell him in non-medical
5 terms. That would make it easier for him to under-
6 stand.

7 Q. Ma'am, what I am getting at
8 is this: you weren't waiting for him to ask the
9 question. You wanted to give him as much as you
10 could without him having to ask the question?

11 A. I'm sorry, I don't understand
12 that.

13 Q. Well, ma'am, you knew from
14 a previous interview with Sgt. Sangster and
15 Constable Murray they were asking some specific
16 questions about a particular baby?

17 A. That is right.

18 Q. This is one month later, and
19 this is a second interview and you knew it was about
20 Allana Miller.

21 A. Right.

22 Q. And it is one officer trying
23 to find out what you knew and what you saw and what
24 you did in a 12-hour shift when Allana Miller died.
25 You knew that?

A. Right.



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Q. All right.

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What I am getting at is you didn't -
you weren't going to wait for him to ask specific
questions. You wanted to tell him as much as
possible about what you could recall because you
wanted to help him?

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A. That is right.

9

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Q. And whether you thought it
relevant or irrelevant you wanted to make sure that
he knew as much as you could recall?

11

A. As much as I would recall --

12

Q. All right.

13

A. -- I would tell him.

14

Q. All right. Well --

15

MS. KITELY: Mr. Commissioner, she
was in mid-sentence as I could understand.

16

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THE COMMISSIONER: Were you, Mrs. Bell?
Did you have something further you wanted to say?

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THE WITNESS: Well, in that he had
specific questions at the end.

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MR. PERCIVAL: Q. Prior to him
asking you specific questions at the end, do I take
it then you agree with me you wanted to give him as
much information as you could recall?

23

24

A. As much information as I could

25



1
2 recall, yes.

3 Q. Well, when you were asked
4 by someone else at this Commission why you didn't
5 tell him that you saw someone inject a 3 cc syringe
6 into the buretrol at 12 midnight on the IV line
7 leading to Allana Miller - your response at page 2490
8 is "I didn't think of it". Do you remember being
9 asked that?

10 A. Yes, I do, sir.
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Q. Well, ma'am, it concerns me that a month before the police officers were asking about Susan Nelles and anyone else administering drugs, and you had some very important evidence to impart to that police officer. Are you asking the Commissioner to believe that that suddenly slipped your mind?

A. I don't believe it suddenly slipped my mind, I felt that it was not an unusual thing for Phyllis to do, would be to give medication to a child, and that my impression, not that I thought of it at the time, but now, would be that Phyllis would have signed for that medication and that the charts were available to the police, so if there was a question about medication then --

Q. Was it more like this, Mrs. Bell, I have got one friend who is now charged with four counts of murder; I have another friend that is still working at the Hospital and might in some way be implicated, I would rather not volunteer that information to this officer?

A. No, I am sorry, it was not like that at all.

Q. It wasn't like that at all?

A. No. It was as I have just said,



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2 that she was giving a medication for what I assumed
3 to be Susan Nelles and this was not an unusual
4 occurrence, and in my mind she had signed it, I did
5 not see the chart afterwards.

6 Q Well, in the questioning on
7 February 7th, Mrs. Bell, and you will forgive me
8 because I was not here but I have read the transcript,
9 and you appeared to leave the impression that the
10 interview by Constable Murray was less than adequate;
11 did you try to leave that impression with this
Commission?

12 A I'm sorry, I don't know what
13 you mean?

14 Q Well, you said in the course of
15 your evidence; I told him certain things and then he
16 said you would be surprised at the evidence the police
already have; do you remember saying that?

17 A Yes, I do.

18 Q As if he was cutting you off,
19 as if you didn't have to think about any more infor-
20 mation. Were you trying to leave that impression, if
21 you were tell me, and if you were not then I will
pass on?

22 A I was asking him that question
23 because of my concern because I still had to work on
24
25



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the ward, and my concern about the other children,
so I asked him that question, and trying to put some
kind of perspective on this whole situation in my own
mind.

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Q. Well, ma'am, at page 2496 you
told this Commission that you asked no questions about
any other nurses and their actions involving Allana
Miller.

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MS. KITELY: Could we just pause for
a moment, sir, while the witness has an opportunity
to look at it?

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THE WITNESS: Thank you.

MR. PERCIVAL: Q. First of all, you
agree with me that you said that?

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A. That I had said that about
Officer John Murray?

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Q. Yes.

A. Yes.

Q. Now you have in front of you I
gather the original statement taken by John Murray
on April 24th of 1981?

A. No, I don't.

Q. Do you not have it?

A. No, I don't.

Q. Well, I have the original and



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maybe we will look at that first. This is the one that is signed by you at the bottom; no, it is not signed by you, but you have seen it, it is in Constable Murray's handwriting, and I think everybody in this Commission, at least all the counsel, have copies of it. In any event, is that the statement?

THE COMMISSIONER: Do you have another one, Mr. Ortved seems to be without one.

MR. PERCIVAL: Q. Is that the statement that you gave to Constable Murray?

A. Yes, it is.

Q. The only nurse I point out to you in this handwritten statement that is mentioned on the second page is Phyllis Trayner, right?

A. That's right.

Q. Phyllis Trayner and Susan Nelles are both mentioned on the third page; in fact Phyllis Trayner is mentioned twice, is that not so?

A. That is right.

Q. On the fourth page Susan Nelles is mentioned twice, Phyllis Trayner is mentioned twice, Sheila Wittingham is mentioned once, do you agree with me?

A. That is right.

Q. On the fifth page Susan Nelles



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is mentioned once, Phyllis Trayner is mentioned once,
Janet Brownless is mentioned once?

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A. That's right.

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Q. So do I take it that you were
telling him about more nurses than just Susan Nelles?

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A. I had gone over the events of
the night as I recalled them.

8

9

Q. So do I take it that in fairness
Constable Murray was asking about what other nurses
were doing and you were telling him?

10

11

A. I was going over the events of
the night, yes.

12

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Q. You were telling him about other
nurses, ma'am, not just Susan Nelles?

14

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A. That's right.

16

Q. And the sole question in this
particular one is at the very end, is it not?

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A. Yes, it is.

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Q. And the sole question is: did
you at any time administer digoxin to Allana Miller?

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A. That's right.

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Q. So I gather you are another nurse
that was questioned about what you did on that
evening?

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A. That's right.

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Q. Now ma'am, I want to get to this area of the bombshell, at least it is a bombshell to me and some other of my friends, that you gave by way of evidence involving your observation of Phyllis Trayner involving Allana Miller.

Mr. Commissioner, before I forget, perhaps we might have the original statement marked because I put the witness through it and I have no objection to it.

THE COMMISSIONER: Yes, all right.

Just a moment before we do this, I can't remember, this was given to counsel?

MS. KITELY: I didn't take an objection to it.

THE COMMISSIONER: No.

MS. CRONK: This has been distributed only to counsel.

THE COMMISSIONER: Just a minute before we make it an exhibit, because once it becomes an exhibit it becomes public property. Does anyone have any objection to it becoming an exhibit?

MR. BROWN: I have no objection but I would like it to be very clear of the grounds upon which this is made an exhibit. If the statement is tendered simply for the purposes of refreshing memory or use of evidence --



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THE COMMISSIONER: Well --

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MR. BROWN: Excuse me, with respect to this one I am not sure whether at that point it necessarily has to become an exhibit. I can certainly see that when we are into Phase 2, the police investigation, and at that time in Phase 2 it would be made an exhibit in the ordinary course. I would not want to be taken to agreeing to a position that any statement be put just for Phase 1 purposes necessarily has to become an exhibit, but because this is dealing with Phase 2 I have no objection to it.

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THE COMMISSIONER: Ordinarily a statement would not be if this were a proper trial, which it certainly is not. If it were a proper trial the exhibit would not be unless it was put in by some counsel for the purpose of in some way, something contrary to what was said by the witness on the stand. Now, I was prepared to receive argument on that basis as to whether it should go in, but as I understand it no one has any objection to it going in, you have no objection to this one going in, and you are not being foreclosed on any argument in any other statement.

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MR. BROWN: I would like to make it very clear why I have no objection. I think different



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rules may well govern the use and the admission of
statements to the Police and the Crown in Phase 2.

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THE COMMISSIONER: All right.

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MR. BROWN: And that is why I have no
objection to it going in.

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THE COMMISSIONER: You may be right,
I haven't given any thought to that, but no one has
any objection as far as I can make out, so let us
make it an exhibit.

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MR. PERCIVAL: Thank you, Mr.

11

Commissioner.

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THE COMMISSIONER: Exhibit 348.

13

--- EXHIBIT NO. 348: Statement taken by
P.C. John Murray from
Bertha Bell (RN),
Friday, April 24th, 1981.

14

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MR. PERCIVAL: Q Now ma'am, I am going
to go to the evidence that you gave to Ms. Cronk I
believe on Monday, with reference to what you
witnessed on the evening of March the 20th and the
early morning hours of the 21st involving Phyllis
Trayner and the 3 cc. syringe.

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A. That's right.

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Q You have told us that you didn't
think about that evidence back on April 24th of 1981
and whether it is relevant to these proceedings or in

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the investigation. When was the first time you thought of that observation and its connection, if any, with the death of Allana Miller?

A. I believe the first time it was pointed out was at the preliminary hearing, there was a reference made to Phyllis giving gentamicin to Allana Miller; and I said yes, and that it was not an unusual thing for a team leader to give a medication for another nurse and then --

Q. I am sorry?

A. And then I was asked to go over the events of the night Allana Miller died with Ms. Cronk and that came to mind, that was one of the things that came to mind.

Q. Anything more?

A. No.

Q. What I want to do is this: you agree with me that you were less than clear, and particularly when you gave evidence at the preliminary hearing, about what you had observed Phyllis Trayner do with this 3 cc. syringe and injecting it into the buretrol? I am not going to go into this, it has already been cross-examined on. You agree with me that you were not very detailed in your comments at the preliminary hearing?



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A. I had answered a specific question and I did not go into any detail, that's correct.

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Q. Well ma'am, do I take it then that it slipped your mind, or you didn't think of it again at the preliminary hearing?

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A. No. At that point, as I said before, Phyllis Trayner had given the medication, so in my mind she would have signed for it, I did not see the chart so I wouldn't know that nobody else knew about it.

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Q. Well ma'am, you were asked questions about whether the Crown Attorney interviewed you before you gave evidence in the preliminary hearing. The one question that has not been asked is did Austin Cooper or somebody from his office interview you before you gave evidence at the preliminary hearing?

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A. No.

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Q. So you had no interview from any lawyer that you are aware of until the time you got into the witness box in the preliminary hearing to give evidence?

A. That's right.

Q. And that includes any lawyer



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for the RNAO, or anybody else?

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A. That's right.

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Q And you had not spoken to any
lawyer at the Hospital, or connected with the Hospital?

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A We had spoken to the Hospital
attorney as a group, he had spoken to us as a group.

8

9

Q At any time were you questioned
with respect to that night and the events of Allana
Miller by that attorney, or that solicitor?

10

A No.

11

12

THE COMMISSIONER: Yes, Mr. Knazan,
just a moment.

13

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MR. KNAZAN: Should we not be asking
to waive the privilege, I think this is going to be
asked many times?

15

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THE COMMISSIONER: Whether this --

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MR. KNAZAN: Well Section 11 of the
Public Inquiries Act.

18

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THE COMMISSIONER: I think whether
she was questioned or not is not privileged, no, but
what the conversation might not be.

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MR. PERCIVAL: I am not going that far.

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THE COMMISSIONER: No.

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MR. PERCIVAL: I assure my friend
I am aware of that.



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Q I want to know whether you were questioned specifically with respect to the observations that you made the night that Allana Miller died?

A By the Hospital attorney?

Q Yes.

A No.

Q Now, you answered specific questions at the preliminary hearing. Do I take it that at that particular point you still remembered Phyllis Trayner having done that, but you really placed no significance on it?

A That's right.

Q When was it that you for the first time placed any significance on that observation?

A At the surprise at Ms. Cronk's office.

Q And was that on January 31st of this year?

A Yes, it was.

Q And who was present at the time this revelation, or the importance of this particular observation that you had made became clear, who was present?

A Ms. Cronk, Mrs. Symes, Mary



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Thomson, Anita, I can't remember her name.

3

Q I beg your pardon?

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A I can't remember their names.

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THE COMMISSIONER: The visible but
silent lady sitting right beside you, Miss Fineberg.

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MR. PERCIVAL: She makes good notes, sir.

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In any event, Mrs. Bell, tell me, did you understand once you had given that information to Miss Cronk the significance of it?

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A. They had seemed surprised at it, like, they didn't know and that I really didn't know why they were surprised because I thought they knew.

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Q. Well, up until that time on January 31st, 1984 had you ever discussed with Phyllis Trayner that observation that you had made of her?

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A. Of her giving the antibiotic?

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Q. Yes. I said medication. You have given it so many times I don't want to hash it up because I recall evidence very poorly, but you have said what you have said. Did you ever discuss that with Phyllis Trayner prior to January 31st when you spoke to the people that you have indicated?

16

A. No.

17

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Q. And have you spoken to Phyllis Trayner since that revelation was made?

19

A. Yes.

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Q. And did you tell her what you had observed?

21

A. No.

22

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Q. And when did you speak to her after January 31st?

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A. I believe it was the Thursday.

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Q. That's last Thursday?

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A. Yes.

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Q. That's February 2nd.

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A. Either the Wednesday or the
Thursday, I'm not sure.

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Q. And that discussion with Phyllis
Trayner, I think you have given evidence was there was
a telephone call.

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A. Yes, there was.

11

Q. She called you?

12

A. Yes.

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Q. To tell you that you were going to
be giving evidence?

14

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A. That she had heard from the media
that I would be next to appear at the Grange, yes.

16

Q. And was that all that was said?

17

A. Pretty well, yes.

18

19

Q. Are you telling the Commissioner
that you didn't tell her at that point that there are
some people who think that what I observed when Allana
Miller died is somewhat new and startling?

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A. That's right.

22

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Q. How long did that telephone
conversation take place?

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A. Five minutes.

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Q. Did you tell her that at least so far as you could understand that some people were trying to implicate her with respect to the death of Baby Miller?

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A. No, we didn't.

7

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Q. Did you tell her anything about any implication as a result of your meeting with Commission counsel and your own discussion?

10

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A. We didn't discuss that meeting at all.

12

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Q. All right. Now, ma'am, if I may go back and I am going to deal with some matters with the police interview and I know Mr. Hunt has gone through this.

15

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On May 20th of 1981 you were interviewed by Sergeant Warr.

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THE COMMISSIONER: Just a moment. We can have our official break any time that it suits you.

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MR. PERCIVAL: Oh, fine. Well, then, this will be convenient. Thank you.

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THE COMMISSIONER: We will take 20 minutes.

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---Short recess.



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2 ---Upon resuming.

3 THE COMMISSIONER: Yes, Mr. Percival.

4 MR. PERCIVAL: Q. I have a rather
5 obvious question, Mrs. Bell, that didn't occur to me
6 until I was drinking coffee, but what did you talk
7 to Phyllis Trayner about for five minutes on Thursday,
8 February 2nd?

9 A. We talked about her child and my
10 children.

11 Q. And that's the only thing you
12 talked about?

13 A. Yes.

14 Q. You didn't talk about what you
15 were going to say at this commission and what she is
16 going to say at the commission?

17 A. That's right.

18 Q. And I gather you have never been
19 in a Royal Commission before?

20 A. That's correct.

21 Q. I see. And aside from the
22 preliminary hearing you have never given evidence
23 before?

24 A. That's right.

25 Q. Now, ma'am, we have talked
about the two police interviews on March 26th and



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April 24th. The next interview was on May 20th with Sergeant Warr where you were questioned about Baby Estrella.

A. That's right.

Q. Did you tell Sergeant Warr at that time that Nurse Susan Nelles was not on the ward when Baby Estrella died?

A. I said I didn't think she was on the ward.

Q. All right.

A. Or on duty.

THE COMMISSIONER: That's what you told Constable Murray, I take it?

THE WITNESS: I wasn't sure if I told Constable Murray or I told Warr, I'm not sure.

THE COMMISSIONER: Well, no.

THE WITNESS: But I think it was when we were discussing Janice Estrella.

MR. PERCIVAL: And that is Sergeant Warr on May 20th of '81.

THE COMMISSIONER: So, it was Sergeant Warr, was it?

THE WITNESS: That's right.

THE COMMISSIONER: But you told someone on that date, is that right?



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THE WITNESS: Yes.

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MR. PERCIVAL: Q. And do I take it that that was for the purposes of pointing out to the police that your friend, Susan Nelles, may very well not have been guilty of that particular offence?

A. That was to clear it up in my own mind because I couldn't personally place her there but I didn't look at any assignment books or anything like that, so, it was just to clear it up for myself.

Q. Now, ma'am, were you around when some strange things were happening in the month of May, May 4th, May 14th with respect to digoxin tablets being lost and some codeine elixir being missing?

A. I know of it, yes.

Q. You know of it. You weren't involved in it?

A. No.

Q. You just heard about it.

A. That's right.

Q. Was it discussed in some depth by a number of nurses as to its significance?

A. It was discussed and it was said that it was going to be reported to the police.

Q. All right. Well, no, did you think anything of it with respect to how relevant it



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would be to the charges against Susan Nelles and the
alleged digoxin murder of four babies?

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A. The relevance to Susan?

5

Q. Yes.

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A. No.

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Q. All right. Now, ma'am, the next
contact I think after you met Sergeant Warr on May
20th was when you were giving evidence on January 20th,
'82 and Constable Murray before you gave evidence
asked or offered to you the statement that you had
given and you read them before you gave evidence.

12

A. That's correct, and I had met
him just prior to Christmas of '81.

13

14

Q. Well, I hadn't heard that, I'm
sorry. What was that about?

15

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A. When he served the subpoena to
appear at the hearing.

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Q. All right. In any event, you had
the opportunity to review your statements and you
reviewed them before you gave evidence at the
preliminary hearing.

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A. I didn't have a chance to review
them all, no.

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Q. Why, because of the shortness of
time or what?

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A. Yes, it was.

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Q. Now, you gave evidence on or about January 28th and the evidence in the preliminary hearing continued for some length of time and even while the preliminary hearing was still on you had a further contact by telephone by Constable Hulcoup, is that right?

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A. It wasn't until about a month after I completed my testimony at the preliminary hearing.

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Q. I understand that, but the preliminary hearing was still on, it was March 10th of 1982.

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A. Yes, I believe it was.

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Q. All right. And I think you have already given evidence that it was a three minute telephone call.

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A. Something to that effect, yes.

Q. All right. Do you recall Constable Hulcoup telling you that he would like to interview you with respect to other unexpected deaths on Wards 4A and 4B?

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A. I don't remember those exact words but to the effect that they were looking into other deaths.



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Q. And did you ask him why are you doing this now, I have given my evidence in court and I have been interviewed several times and I am sick of it?

A. That's right.

Q. Do you recall saying that to Constable Hulcoup by telephone?

A. I do.

Q. And did you tell him that there was no way that you were going to talk to the police?

A. Not at that time, no.

Q. Did he say to you that they were interviewing all of the nurses on the ward to see what they could recall about the deaths?

A. He could have.

Q. And did he ask to make an appointment with you?

A. Yes.

Q. And did you tell him you will have to get back to him?

A. I could have, yes.

Q. Yes. Well, did you get back to him?

A. No, I didn't.

Q. Well, ma'am, then the next time that you had any connection with the police was in



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August of 1982. Do I take it that in the month of August a number of attempts were made to interview you and the appointments did not take place?

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A. I had made the appointment for August.

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Q. All right. Well, I suggest to you that that appointment in August was made as a direct result of the hospital insisting upon you keeping the appointment, would you agree with me on that?

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A. The hospital had arranged for me to leave the floor.

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Q. Well, at that particular time, ma'am, I think this is the occasion that you have told the Commissioner, that some 40 medical charts were available for your consideration in the course of about two hours.

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A. Yes.

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Q. Do I accurately portray your evidence?

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A. Yes, but I am not sure of the exact number.

Q. And by that time I gather that you were aware that Susan Nelles had been discharged.

A. That's right.

Q. Right. And were you also aware



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that the presiding Provincial Court Judge Vanek had said there had been at least four babies murdered in the Hospital for Sick Children, are you aware of that?

A. Something to that effect, yes.

Q. Yes. Do you recall being asked about, as a typical example, Baby Woodcock. Do you remember being asked about Baby Woodcock by those officers and one was a male and one was a female, Sergeant Dick and Sergeant Pulford.

A. I probably was, yes.

Q. All right. Well, it is reported that when you were asked about what you could recall about the death of Baby Woodcock your answer was "I don't remember".

A. That's right.

Q. Well, ma'am, I have looked through your evidence and it's found in Volume 98 in these proceedings, 2089 to 2108, 2166 to 2167, by actual count it is 22 pages of evidence on the life and times of Baby Woodcock and the events surrounding his death. What happened between August of 1982 and February 6th of 1983 to get you so much memory back?

A. I had sat down with the attorneys in a more calmer atmosphere and had time to go over the



1
2 charts and felt that I had time to go over the
3 charts.

4 Q. Well, ma'am, you are not suggest-
5 ing in the month of August the police officers were
6 rushing you. Is that what you are suggesting to us?

7 A. I had that feeling that I needed
8 to rush into and answer.

9 Q. I see. Well, do I take it at this
10 particular point, and I think you have already said
11 it, you were certainly not trying to be cooperative.

12 A. I don't think at that point that
13 I was not trying to be cooperative. I felt pressured
14 into giving an answer quickly. I didn't feel I had
15 the time to look through the chart, through each
16 individual chart, I still had to get back to the ward
17 and look after my patients as well, plus there was
18 a number of charts there. I just did not feel that
19 way.

20 Q. Ma'am, that interview was
21 arranged with the approval of the hospital. Are you
22 seriously suggesting that if you wanted 2, 3, 5, 6
23 hours that the hospital was not going to arrange to
24 have someone cover for you?

25 A. They had arranged for the other
nurses on the floor to cover, but I still had to get



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back. I didn't think it was fair for the others to
cover.

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Q. Well, ma'am, at this point you
knew that there was at least four murders and the
police were investigating other babies. Why wouldn't
you want to help them?

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A. I did want to help them but I
still had the concerns for the babies that I am
looking after, plus I still felt the pressure from
having to go through those charts. It just wasn't
an atmosphere where I felt I could take the time and
really look at the charts.

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Q. Did you tell them that?

A. It was the type of situation

where I couldn't.

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Q. You couldn't tell them, I don't
feel like looking at the charts?

A. I don't think that's a fair
statement.

Q. Well, ma'am, you were asked about
Baby Perreault on this occasion and your answer was
'I know nothing'. Do you recall saying that to them?

A. That's right.

Q. Well, by actual count you had
given evidence over six pages, from 2109 to 2115 in



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these proceedings. Again, is that because you didn't
want to know anything when you were interviewed by
the police officers?

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A. That's not because I didn't want
to know anything, it's because of the pressure that
I felt at the time and since then I have had time to
go over the charts and to discuss these children and
something else would come to mind that would bring
other things to mind as well.

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Q. The question from the officers
about Baby Onofre. You were asked to review the
chart and give evidence and give information to them
and your answer was, 'I don't remember'. You have
given evidence in these proceedings over four pages,
from 2228 to 2233. Again, is that your same response?

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A. Yes, it is.



/EMT/ak

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3 Q. You didn't have the time or the
4 inclination to review the chart and help these
5 officers?

6 MS. KITELY: Mr. Commissioner, I
7 don't think the witness said she didn't have the
8 inclination. My friend is putting words into her
9 mouth.

10 THE COMMISSIONER: Well, that is
11 what cross-examination is, you know.

12 MS. KITELY: Well, except that he
13 has to correctly state what she said, sir.

14 MR. PERCIVAL: My Lord, I thought
15 the question of not being particularly co-operative
16 and not having inclination were synonymous, and
17 maybe I - I am an old broken down engineer and some-
18 times my English suffers.

19 Q. Do you agree with me, ma'am,
20 that you didn't have the inclination to help these
21 officers on this occasion?

22 A. No, I don't.

23 Q. Tell me what you were doing
24 then?

25 A. I felt --

Q. You wanted to help them?

A. I felt the pressure of having



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to go through these, all these charts, and I just
didn't feel I had the time to go into it.

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Q. Ma'am, isn't it this, that you
didn't want to get involved; you didn't want to help
these officers; you didn't want to implicate anyone
else?

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A. No.

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Q. Ma'am, in the course of three
years, and you are still working at the Hospital
for Sick Children?

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A. That is right.

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Q. And you have talked I gather
with all those people on the wards during the nine-
month period and you talked from time to time with
them about the events. With different people.
Different nurses that were there.

17

A. Not particularly about the
events, no.

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Q. All right. Well, did you ever
get the impression that there were nurses there on
the wards during those nine months when, being
interviewed by the police, weren't giving them all
the information they could have?

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A. Did I have the impression that
other nurses weren't giving --



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Q. Yes.

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A. No.

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Q. Did you ever say to some of them "If they ask you questions remember that you don't have a memory."? Did you ever say that?

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A. No, I didn't.

8

Q. Or "Don't tell them anything."?

9

A. No. We never discussed anything specific about the children.

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Q. And I gather it would surprise you that at least one of your co-workers feels that you had information that you were not giving to the police. Would that surprise you?

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A. Would it surprise me that someone else had - I'm sorry?

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Q. No, no, would it surprise you that one of your co-workers, a fellow nurse, felt that you were not being particularly informative so far as the police investigation was concerned?

19

A. Yes, it would surprise me.

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Q. All right. And, ma'am, did --

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THE COMMISSIONER: Just a moment, please.

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MS. CRONK: Sir, in fairness, I don't like to interrupt my friend Mr. Percival, it



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3 may well be that he is referring to another colleague
4 of Ms. Bell and of course the only evidence you have
5 heard to date on that issue was a denial by our
6 last witness.

7 MR. PERCIVAL: I understand, but
8 it is a witness that has not yet given evidence.

9 MS. CRONK: Fine, sir.

10 THE COMMISSIONER: Yes. I don't
11 know whether you intend to contradict it by --

12 MR. PERCIVAL: Well, I will put
13 the question.

14 THE COMMISSIONER: Yes.

15 MR. PERCIVAL: I think in fairness,
16 but I am not sure whether or not - may I ask the
17 witness - I'm sorry, I don't know whether this witness
18 is going to be giving evidence. That is my difficulty.
19 Well, I will put it.

20 THE COMMISSIONER: I think it would
21 be better to put it.

22 MR. PERCIVAL: Thank you. I agree
23 with you.

24 Q. Do you know Meredith Frise?

25 A. Yes, I do.

Q. All right. Would it surprise
you to know that she felt that you were not being -



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that you had information that you were not giving to
the police during the course of their investigation?

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A. That would surprise me, yes.

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Q. All right.

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Ma'am, even up to this moment in time
has it ever occurred to you that you might have been
an eyewitness to an event that some might consider
the deliberate giving of an unauthorized drug to a
baby that caused its death?

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A. I was present at the time
some of these children died --

12

Q. Well --

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A. -- so I would be able to give
some evidence as to what went on when those children
died, yes.

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Q. Well, ma'am, my question is
very particular: has it ever occurred to you right
until this moment in time that you might have been
an eyewitness to an event involving Allana Miller
to someone giving an unauthorized drug to that baby
that caused its death?

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A. No.

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Q. Now, ma'am, do I take it that
throughout the course of nine months there was
anxious concern by many people including yourself



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about why all these babies were dying?

A. Are you talking about from --

Q. The epidemic period.

A. There was definite concern,
yes.

Q. Yes, concern. Everybody was
looking for answers and no answers were coming?

A. Some answers were coming - had
come.

Q. I see and as we got into the
events of March, some strange things were happening,
bizarre things happening; Hospital procedures were
changing.

A. That is right.

Q. And do I take it that when the -
I am told that the police arrived on the scene
on March 23rd of 1981. You now understand that to
be the case?

A. Since being told that, yes.

Q. And I gather that you have some
doubts about the police officers' effectiveness in
investigating.

THE COMMISSIONER: I'm sorry, did
you say March 23rd?

MR. PERCIVAL: March 23rd.



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THE COMMISSIONER: The police?

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MR. PERCIVAL: Into the Hosiptal.

4

THE COMMISSIONER: I thought they
came on March 22nd.

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MR. PERCIVAL: All right, March 22nd.

7

I'm sorry.

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THE COMMISSIONER: It is not
important but I just thought...

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MR. PERCIVAL: Q. But you understand
the police were in there on March 22nd or March 23rd?

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A. I have known that since this
process has started.

13

14

Q. Do I take it that you have
personally some doubts about the police officers'
effectiveness in investigating these matters?

15

16

A. In looking in retrospect, yes.

17

Q. I see. Do you know what has
happened of which there can be no dispute?

18

19

A. I'm sorry?

20

Q. Do you know what has happened
of which there can be no dispute?

21

THE COMMISSIONER: Well, that is not
an easy question to answer.

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MR. PERCIVAL: Q. Well, ma'am,
the deaths stopped, didn't they, after March 22nd.

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A. I cannot say because in July
I left that ward.

Q. Ma'am, they stopped between
March 22nd and July of 1981, didn't they?

A. We had some deaths.

Q. That had anything to do with
digoxin?

A. Not that I know of.

Q. Any unexpected and unexplained
deaths in that time period?

A. Not that I know of.

MR. PERCIVAL: Thank you, ma'am.

THE COMMISSIONER: All right, thank
you, Mr. Percival.

What about Mr. Shanahan? Now I am
concerned about --

MR. SHANAHAN: Could I ask to be
squeezed in now?

THE COMMISSIONER: You could ask.
I don't know, who is next? Are you going to take it,
Miss Thomson?

MS. THOMSON: Mr. Roland is not
here this morning as you can see. We have no questions
for this witness so it renders it academic.

THE COMMISSIONER: Yes. All right.



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3 Mr. Ortved, would you have any objec-
4 tion?

5 MR. ORTVED: Not at all.

6 THE COMMISSIONER: Has anyone else
7 any objection? Yes, you have?

8 MR. BROWN: No, I have no objection
9 to Mr. Shanahan going at all.

10 There were two matters that were
11 raised by Mr. Hunt and Mr. Percival in their cross-
12 examination and I would seek your leave at some time
13 during the course of the day to be able to conduct
14 a very brief re-examination.

15 THE COMMISSIONER: Oh, well, yes.
16 I guess that is all right. That certainly is the
17 principle, but I don't know what the two matters
18 were.

19 MR. BROWN: Well, very briefly they
20 were - there was some comment about a discussion on
21 euthanasia. There was certain ambiguity about that.

22 THE COMMISSIONER: Oh, and the
23 statement in the room?

24 MR. BROWN: About the five out of
25 seven or whatever it was.

THE COMMISSIONER: Yes. All right.
I don't see any objection to that.



Yes, Mr. Shanahan?

CROSS-EXAMINATION BY MR. SHANAHAN:

Q. Yes, Mrs. Bell, my name is Shanahan and I act for the parents of the Lombardo and Dawson children. All right.

A. Right.

Q. I think I can really sum up largely your evidence there: both of them died, first of all, on 4A and of course you were the team leader on 4B.

A. Right.

Q. And you weren't on for Lombardo as was dealt with very briefly. I think you were in another part of the Hospital there on that day on December 23rd. I think that was your evidence. You weren't just up on the ward at all?

A. That is right.

Q. All right.

And with respect to Amber Dawson her date of death was July 28, and I think that you were on holidays or you were off on a collection of days around that time and that you returned and I think it was put to you that you were gone a total of 10 days and that when you returned you realized that four children have died during that time,



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Amber Dawson being one of them?

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A. That is right.

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Q. So although Dawson dies on 4A

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you are simply not in the Hospital when Dawson dies?

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A. That is right.

7

Q. However, you did say at

8

Volume 98 you heard about Dawson's death, and in

9

fact of the four deaths that did occur around that

10

time that Dawson's death really was the one that

11

stuck out in your memory and stuck out in your

12

memory because in fact there had been expressed

13

concern by other nurses about the cause of Amber

Dawson's death?

14

A. Right.

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Q. All right.

16

A. I believe so.

17

Q. I'm sorry?

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A. Yes, I believe so.

19

Q. First of all, did you ever

20

deal with Dawson prior to that? We know she had

earlier stays and she was in the Hospital.

21

A. I might have.

22

Q. You might have?

23

A. Yes.

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Q. I take it from that answer

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that if you did you don't particularly recollect her --

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A. That is right.

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Q. -- or her mother?

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A. That is right.

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Q. In any event then if I could

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refer you to Volume 98, you say there and perhaps

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it says it well enough if I can just get you to

9

concur in it again.

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MS. KITELY: What page, sir?

11

MR. SHANAHAN: 2131.

12

THE WITNESS: I have it.

13

MR. SHANAHAN: Q. All right. The

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top of page 2130, I'm sorry, Mrs. Bell, the question
was:

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"Q. During that 10-day period with..."

16

And I think that is the 10-day period you were off.

17

A. Right.

18

Q. "...when you were absent from
the Hospital four more children died

19

on those wards: David Taylor died

20

on the 27th, Amber Dawson died on

21

July 28th, Lillian Hoos on July 21st

22

and Philip Turner on August 1st."

23

A. Right.

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Q. "When did you first learn of the

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"deaths of those children?

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A. When I returned back to work
on August 4th."

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Then on the following pages, on the
next page, 2131, down around line 18 --

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A. Yes.

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Q. Miss Cronk asked you a

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question:

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"When you discussed these deaths with
members of your own team, was there
any concern expressed regarding the
cause of death of any of the four?
That is Taylor, Dawson, Hoos and
Turner."

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And you say:

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"There was concern about Amber Dawson.

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Q. What was the nature of the
concern?

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A. As to the cause of death."

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And then you were asked do you recall specifically
discussing it and you said you didn't.

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A. Right.

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Q. It was put to you at line 8:

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"Was it suggested to you that the
cause of her death had really not been
resolved?"

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And you said:

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"Yes."

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And then you come down to line 15:

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"Well, apart from Amber Dawson did any member of your own team express any concern to you regarding the cause of death of the other three?

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A. No. Not that I recall now."

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Now we were talking about Trayner and

10

Nelles then. On the next page, page 2133, line 15:

11

"Did either of those two women -- "

12

And they have been identified above, Trayner and Nelles.

13

14

A. Right.

15

Q. " -- express concerns to you as to the cause of death of any of these four children?"

16

17

And you say:

18

"Again Amber Dawson."

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On the top of the next page, 2134:

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"They both were concerned. I was

21

talking to them at the same time."

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And then the final question, line 8:

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"Was it suggested at any time during any of the discussions you had regarding

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"these children that digoxin may have been involved in the death of Amber Dawson?

A. No."

Now then has it ever - have you ever received or have you ever directly or indirectly had your mind put at ease or heard that their mind was put at ease with respect to the possible cause of death of Amber Dawson?

A. I believe Amber Dawson was one of the children that we had discussed at the mortality meetings.

Q. All right. I would suggest to you, though, that in fairness - did you know the coroner was called in on Amber Dawson?

A. No, I didn't.

Q. You didn't? All right. Let me tell you the coroner was called and that Dr. Cutz in the Pathology Department at Sick Children's did do an autopsy. And if I can sum up the net effect of that autopsy was that there was no cause of death found for Amber Dawson.

Had you ever heard that?

A. I could have.

Q. All right. You could have? It



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doesn't really stick out in your mind?

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A. I don't remember Amber Dawson's death being resolved either way.

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Q. All right. You don't remember it being resolved either way.

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As you look back now over this time period, and I have heard your answers to other counsel, you will agree then that although you weren't on and Nelles and Trayner were expressing some concern, do you now, as you look back at that period, agree that a child about which the two nurses that were caring for her were expressing that concern, the coroner called, no final cause of death on it, that that is a problematic kind of case as you look back.

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A. As I look back it would be, yes.

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Q. Did you ever hear about any disagreement at the bedside of Amber Dawson about the timing of a Code 23 or a Code 25?

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A. I don't think so.

20

Q. You don't think so?

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A. But I'm not sure. I can't say for sure.

22

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Q. All right. Well, I won't take you through because that takes you through a number

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of pages. I think I can sum up how you went about it with Miss Cronk.

It seemed to me that what you are saying, initially you had heard or there was a feeling that there was an over-reaction on two children right around that time because the discussion came up around August 4th. So that would have been that four, that cluster of four about a week before.

A. Right.

THE COMMISSIONER: I think, I may be wrong, but I think you said Code 23 and not Code 25.

MR. SHANAHAN: Well, both of them really I am talking about, but Code 25 specifically.

THE COMMISSIONER: Did you have any concern about Phyllis Trayner acting too quickly on Code 23's?

THE WITNESS: I think it was more the Code 25's.

THE COMMISSIONER: Yes. That is what I thought.

MR. SHANAHAN: Let's keep it to Code 25.

Q. But I thought you said initially you thought it was two of the children; you seemed to include Dawson and then in further



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clarification with Mrs. Cronk, and in fairness - or Miss Cronk, and in fairness I think you said you just weren't sure which of the two it was that there had been this feeling that a Code 25 had been called too early.

A. Right.

Q. Is that a fair summation of your recollection?

A. Right.

Q. You will agree, though, that it well could have been Dawson?

A. It might have been --

Q. All right.

A. -- but I can't say for sure.

Q. And it may well tie into that other feeling that you are sure did come from Nelles and Trayner and that is a real concern on their part with respect to this one child as to what caused her death?

A. There was a concern there, yes.

Q. All right. Would you now, as you look back, perhaps link the two that there was this genuine concern as to what caused her death and that maybe this disagreement too was all part of that whole concern?



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Does that help you at all in tying
down as I say this problem about too early call of
the Code 25?

A. No.

Q. All right. You said in any
event that there clearly was a concern about Code 25
being called too early. I think you mentioned that
with respect to Bilodeau you made the comment that
Bilodeau's resuscitation efforts were disorganized?

A. That is correct.



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Q. It was the first time that that team, not the first death, but it was the first time that that team since coming down to 4A and 4B had had to do a full resuscitation effort?

A. That's right.

Q. I think as well there was the feeling with respect to Bilodeau that perhaps there had been too early a call?

A. I don't think so.

Q. I have my own reference and I may be right and I may be wrong here; that volume you have in front of you ma'am, page 2124, and this is at line 11:

"Q. After the child died did there appear to be concern amongst the nursing staff insofar as you were aware as to the cause of his death?

"A. I believe our concerns were related to this was in fact the first arrest that we had been involved in either in a long period of time. We were very unorganized and there was a question of had we been a bit better organized or had we noticed things earlier could



J.2

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2

"something have been done; that type
of conversation went on."

3

4

A. Right.

5

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Q. Now it struck me as a little bit
strange here, there was at the outset a comment on
the Bilodeau death that maybe things had not been
done, or recognized early enough, and yet one of your
concerns now and then seems to be that Phyllis Trayner
may have been overreacting and calling them too soon.
Do you see the kind of contradiction there?

11

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13

14

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A. Well, I don't know if it is a
contradiction here. What I recall about Bilodeau
was the fact that we were very disorganized, but it
is only a matter of minutes before somebody is there
to organize us. Action was being taken, it was just
getting organized and the arrest situation like.

16

17

18

19

Q. I appreciate that.

A. Like something was being done,
but I don't think that the two I was concerned about
was from this one.

20

21

22

23

24

25

Q. Even granting you that Bilodeau
may not have been one of the two --

A. Right.

Q. -- that you were concerned about,
the fact remains that of that group in that month



J.3

1

2

your comment with respect to Bilodeau, the first one

3

whereas a team they were working together was (a)

4

they were disorganized?

5

A. Right.

6

Q. And (b) that with Bilodeau they

7

were not early enough? As I recall it, and I can't

8

give you now a reference to this one, but it seemed

9

to me that later on there was some concern even by

10

a doctor, the concern seemed to crop up at times,

11

were we early enough, were we watching close enough,

12

I think once you said about a nurse maybe being

13

concerned that she was out of the room and hadn't

14

caught the signs quite quick enough. The whole tenure

15

after that seems to be, did we react quickly enough,

16

not that we reacted too quickly?

17

A. I guess it is going over the

18

whole situation and evaluating it so that, you know,

19

it occurred and we did what we could at the time,

20

but sort of going over it in a way that we learned

21

from it.

22

Q. You will agree mind you, and

23

the Commissioner pointed this out, that early or not

24

all of these children did in fact die, they were not

25

resuscitated?

A. That's right.



J.4

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Q. Now really if one was to err could Phyllis Trayner be faulted for erring on the side of caution and calling the Code 25 just slightly earlier?

A. I don't think she could.

Q. You don't think, maybe I didn't phrase it right, what really do you see as a fault in someone calling a Code 25 a little earlier than you might, bearing in mind that these children obviously needed a Code 25 ultimately because they all died?

A. I don't think it is actually in calling the Code 25, it is taking a few extra seconds to assess the situation, I think that was my main concern.

Q. If I could then link that up in a second about Phyllis Trayner's behaviour at the time. First of all you have commented that you felt it was common knowledge - I am sorry, it was felt and discussed that maybe Phyllis Trayner was over-reacting and calling the Code 25's too early, that was one feature about her behaviour.

A. Okay.

Q. A second one was, you said, or it seemed clear that the comments about this behaviour



J.5

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were focussed and localized on Phyllis Trayner, there was no concern about Christie, Brownless, Nelles, it was Phyllis Trayner that was in effect making these decisions about the early call, that is what I gather from your evidence anyway?

A. Well, that she wouldn't take that time to assess --

THE COMMISSIONER: Was it just Phyllis Trayner or was it the other members of the team?

THE WITNESS: No, it was Phyllis.

MR. SHANAHAN: Q. I know you may not accept the wording, but she was fussing openly; being very vocal; I think you used the terminology "rehashing these things"; seeking a lot of reassurance, perhaps to the detriment of others not getting sufficient reassurance, these things too were focussed and localized on Phyllis Trayner?

A. They were.

Q. As well as that I think you said that it was expressed from all the nurses on the team, on both teams, and I can give you a page and reference on that, Volume 98, would you agree?

A. Yes.

Q. And as well as that it was especially picked up I think you said by Nurse Nelles?



J.6

1

2

A. Well, she worked on 4A.

3

Q. That is probably the reason why,

4

but I am just saying do you agree that all the nurses
commented that it is especially a cause of concern of
Nurse Nelles about Trayner's behaviour during this
time period?

7

A. I think it was for all of us,

8

not particularly one person more than another.

9

Q. Now Nurse Costello gave evidence

10

in Volume 96, and if you would just bear with me for

11

a moment here, this is Volume 96 and it is at page

12

1560. Nurse Costello notes about an interview she

13

had with you and about concern and stress about

14

working on the team parallel to Phyllis Trayner, and

15

on page 1560 at line 16, it starts before about a

16

specific person being related to specific behaviour,

the question from Ms. Cronk, or Mr. Hunt was:

17

"Q. All right, and what was that?

18

"A. The behaviour was that Phyllis

19

was inclined to take over the leader-

20

ship role when the cardiac arrests

21

and deaths happened."

22

This is Miss Costello's answer, not yours, I am

23

going to be asking yours too:

24

"A. The behaviour was that Phyllis

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J.7

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"was inclined to take over the leadership role when the cardiac arrests and deaths happened."

"Q. Yes.

"A. And that Bertha expressed that she was now doing this to the extent that the rest of them felt dominated or a little bit - that their performance in that role would be judged by Phyllis and not free to take full responsibility for their own role, and Bertha, as team leader of 4B, was speaking as well on some of these deaths that were happening on 4B, where she was questioning her own feelings. She would have liked to be in charge and feel very competent and confident that she was in charge during those situations, and Phyllis' behaviour was inhibiting her."

And it comes down to line 13:

"Q. And Bertha Bell, she was not connected with Phyllis' team?

"A. She was a team leader --



J. 8

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2

"Q. But rather had her own team on

3

4B?"

4

That would be you:

5

"Q. But rather had her own team on 4B?

6

"A. Which usually worked at the same
time that Phyllis' team worked.

7

"Q. And they worked parallel?

8

"A. Yes.

9

"Q. All right. So Bertha normally I

10

take it would not be involved with

11

Phyllis in connection with the same

12

patients?

13

"A. No, not formally."

14

There was a long question at the top of the next page
but I think your answer sums it up:

15

"I think the issue with Bertha was

16

that she also took the leadership role

17

if the situation arose on 4B, which

18

was where Bertha was the leader.

19

"Q. I see. So it was not just in

20

connection with the cardiac arrests or
resuscitation attempts on children in

21

arrest with respect to her own team,

22

but it was with respect to Bertha's

23

team as well?

24

25



J.9

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2

"A. Yes.

3

"Q. And normally that would not have
been Phyllis' role, I take it?

4

5

"A. No."

6

Would you agree with Miss Costello's
characterization of Phyllis Trayner's participation
in deaths and arrests in other than her own specific
ward, Ward 4A?

8

9

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14

A. Not fully. Phyllis, again she
was more vocal in this type of situation, whereas I
am not as vocal as she is. However, things go along
smoothly and it is not any kind of - like it never
caused any problems with actually what was going on
with the children.

15

16

17

18

19

Q. That is not really my question
whether or not it caused problems with the children,
I hope it didn't. What I am saying to you is that
Nurse Costello made notes of her meeting with you
and she says that you expressed concern about Phyllis'
behaviour?

20

A. Right.

21

22

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Q. Now when Nurse Costello came here
and was asked what that concern was, she expanded on
the comment and said the comments I have said there.

A. Yes.



J.10

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Q She said that Phyllis got off her own ward, got over into 4B when these arrests would occur, that she would barge in, if you like, I may be exaggerating, but barge in to a certain extent and take over, and that you after a while felt that, I am the boss here, I am the leader of this team and that she was coming in and that she was taking over and that you were expressing your concern to Nurse Costello. First of all, did you express that concern to Nurse Costello?

A I expressed a concern but it wasn't - no, that isn't what I meant.

Q Do you disagree now with Nurse Costello's interpretation though of what you meant by that concern?

A Yes.

Q Well, would Phyllis Trayner come over to 4B and assist you in resuscitation attempts?

A Yes.

Q Did she at that time?

A Yes.

Q Did she take over, did she get in there and actually get involved in making the decisions, and in fact initiate the CPR and things of that nature?



J.11

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A. She would be very vocal, she would initiate some things.

Q. Did that finally lead to causing you some concern?

A. I felt that she should be talked to about it.

Q. It caused you enough of a concern that you felt perhaps she should be sort of redirected to look after your territory and what goes on there, and certainly assist Bertha Bell but you don't need, Bertha is competent, you don't need to get in there and run resuscitation attempts there on Bertha Bell's ward?

A. I guess the idea for her to be a little less vocal during the situations on --

Q. By vocal you mean being vocal was giving orders?

A. I was referring now to only to the actual arrest situation but afterwards as well when she was more vocal in seeking reassurance.

Q. I know you were talking about that.

A. Right.

Q. But I was talking here, and I just want to try and confine it, that leaving her ward and coming over to your ward was causing you concern,



J.12

1

2

and you say because she was vocal; and I am saying
what you mean by vocal there is that in fact she was
taking over and giving orders?

4

5

A. I don't think that was the
concern.

6

7

Q. To some other behaviour then
with respect to Nurse Trayner, you had the issue
about the early Code 25's; the complaints being just
about her, from all the nurses, especially from Nelles;
you have her fussing openly --

10

11

THE COMMISSIONER: I don't think she
did say Susan Nelles?

12

13

MR. SHANAHAN: She didn't?

14

THE COMMISSIONER: No.

15

MR. SHANAHAN: All right.

16

THE COMMISSIONER: At least that
wasn't - please correct me if I am wrong.

17

MR. SHANAHAN: No, I think you are
right, sir.

18

19

THE WITNESS: No, that's right.

20

MR. SHANAHAN: Q. She was fussing, she
was vocal, she needed assurance, she was getting
involved in 4B to the extent it was causing you
concern, am I right?

21

22

23

A. I don't think that it was getting

24

25



J.13

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2

involved in 4B arrests that was causing concern,
because that was not an abnormal situation, whereas
I would be involved in the arrests on 4A.

4

(2)

5

Q Not getting involved, yes, it
seems you have gone over to the other side to help to?

6

7

A Yes.

8

Q But nobody ever complained about
you going over or what you did when you got there? I
am saying not getting involved per se, but the extent
to which she got involved, how vocally she did get
involved, caused you to take it to Nurse Costello,
and this is one of the features of Phyllis Trayner's
behaviour over that time period, am I right?

10

11

12

13

A Yes.

14

15

Q And again you say that - you
come down to 4A I think in April, but somewhere I
seem to recollect that the Trayner team and Nelles
working with Trayner and these observations about
Trayner would all localize from June 1 onwards?

16

17

18

19

A They would localize around the
time of the arrest.

20

21

Q No, but I am saying the first
observations here about the early 25's, Code 25's,
by definition and Bilodeau is the first one they did
on 4A, we are talking about the month of June?

22

23

24

25



J.14

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2

A. All right.

3

4

THE COMMISSIONER: We are talking about the month of July, I think.

5

MR. SHANAHAN: Yes, July, I am sorry.

6

7

8

Q. And in terms of the complaints here about her getting involved in the increasing number of arrests on your ward, that too would have to be all localizing around, from June 30th onwards?

9

A. Until the time of evaluation, yes.

10

11

12

13

Q. So all of this had cropped up and had crystallized within the time period from late June-July 1 to your evaluation which I think was in October?

14

A. The end of October, yes.

15

16

17

18

19

20

Q. Finally then Mr. Hunt put to you with respect to - quite apart from the nine-month period, that if you look at the number of nights that Mrs. Trayner is on it is 52 nights and that 28 children died during those nights. Would you agree that is a startling coincidence, I put to you, one dying every second night approximately?

21

A. In those terms, yes.

22

isn't it?

23

24

25

A. Put in those terms, yes.



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J.15

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Q As well as that, it is something
that came up the other day here, as I spoke to Miss
Costello there was a time period right at the outset,
I will just take a few seconds with you, it will be
a lot quicker if you have the WIN sheets for 4A,
Exhibit 335.



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Q. I am initially looking at page

1. I may move too fast for you, if you have any difficulty slow me up. But there is apparently here, you will see there on Sunday the 29th Mrs. Trayner under the name Morrin was working the long nights.

A. Right.

Q. And we know that Woodcock died during that long night shift.

A. Correct.

Q. All right. And then you have Mrs. Trayner off for the following week, June 30th to July 6th.

A. That's right.

Q. And coming back on long days from the 7th.

A. Right.

Q. And we know from looking at our tables that in fact there were no deaths during that time period when she's off, that's a week stretch. Much later in the schedule Phyllis Trayner gets married. You would recollect that knowing her, you probably know that as well as we do.

A. Right.

Q. All right. And that in those WIN sheets, the time period that I want to direct



1
2 you to, occurs in the week of August 25th/August
3 31st. As I look at it here, it was a lot fresher
4 in my mind the other day, but it appeared that on
5 August 29th Phyllis Trayner is off.

6 A. August 29th, right.

7 Q. All right. And if you can turn
8 those pages then, the following week, September 1st
9 to 7th she's off.

10 A. Right.

11 Q. V for vacation.

12 A. Right.

13 Q. The following week, the 8th of
14 September to the 14th she's off.

15 A. Correct.

16 Q. Takes some holidays in there.

17 A. That's right.

18 Q. And the following week, September
19 15th to 21st she's off again.

20 A. That's right.

21 Q. All right. And then finally
22 returns the Wednesday the 24th of the following week
23 and does a long night.

24 A. On the 24th, right.

25 Q. All right. And we have from our
records, and I will ask you to accept it without me



1
2 having to go through exhibits, that in fact Baby
3 Velasquez dies, is the last baby to die while Phyllis
4 Trayner is at work in the month of August and that
5 with the exception of Heyworth, and we will get into
6 that in just a moment, no other baby dies that we
7 are concerned with during that whole time period that
8 she is off on her marriage, about 3 to 3-1/2 weeks, the
9 next baby to die is when she returns on the 24th of
10 September, the long nights, and that is Baby Gage.
11 So, with the exception of Heyworth, I think it is
12 Heyworth -- let me just check my writing here.

13 A. Yes.

14 Q. With the exception of Heyworth,
15 that's the only child that dies in that whole time
16 period.

17 A. If you say it is.

18 Q. All right. Now, Heyworth I think
19 we have said was an 11 year old girl who was so ill
20 that there was in fact a 'do not resuscitate' order
21 placed on her charts.

22 A. I am not sure if there was or not.

23 Q. All right. I suggest to you there
24 was and I suggest to you that when she does start to
25 arrest and get ill that in fact that order is abided
by and that there is no extraordinary resuscitation



1
2 procedure given to young Heyworth. You don't know?

3 A. I don't know.

4 Q. All right. Fair enough. Now, Mr.
5 Hunt has given you when she is on, you have seen
6 there when she is off.

7 A. Right.

8 Q. But one other child, Estrella.
9 You mentioned about Estrella here. Estrella's records
10 would be around the week of January 5th to the 11th.
11 Now, Mr. Registrar, could I have the Statement of
12 Prima Facie Facts, I think it is Exhibit 2.

13 THE COMMISSIONER: 3.

14 MR. SHANAHAN: 3, right.

15 Q. We got very early, Mrs. Bell,
16 an agreed statement of facts about certain things
17 that didn't seem to be really in issue.

18 A. Yes, I know that.

19 Q. Exhibit 3. One of the babies
20 summed up on that, on page -- Janice Estrella on page
21 61 and I am going to do this because for me to get
22 Estrella's chart and take you through it, it simply
23 would take very long.

24 MS. KITELY: Mr. Shanahan, Mr.
25 Commissioner, I don't have my copy. If my friend is
going to refer at length to Exhibit 3 I wonder if he



1

2

can read it to the witness while she is in the stand.

3

4

MR. SHANAHAN: Well, I am going to read
it to you because I have left my copy elsewhere.

5

6

MS. KITELY: Ms. Thomson has graciously
provided me with her copy.

7

THE COMMISSIONER: All right.

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MR. SHANAHAN: Q. All right. It says:

"This 3-month old girl with Down's
Syndrome, patent ductus arteriosus,
atrio-ventricular canal defect, and
poorly controlled CHF was admitted on
14 December for elective surgical
repair of her cardiac anomaly. This was
performed on 16 December and on 28
December she was transferred from the ICU
to Ward 4A. Post-operatively she re-
mained in CHF and digoxin therapy was
resumed. At 0700 hours on 7 January,
1981 she suffered a respiratory arrest
and was successfully resuscitated. A
digoxin level measured at 0820 hours on
7 January was 9.4 nanograms per
millilitre, and digoxin was discontinued.
Repeat serum digoxin measurements
collected on 8 and 9 January were 7.8 and



1
2 4.7 nanograms per millilitre respectively.
3 She continued to be in relatively poor
4 condition. Throughout the day and even-
5 ing of 10 January her pulse was stable
6 but she fed poorly and was tachypneic
7 despite receiving 50% to 60% oxygen by
8 hood. At 2330 hours on 10 January a
9 physician noted that her respiratory
10 rate was 'still elevated', but no
11 intervention was made. At 0240 hours on
12 11 January she began gasping. Cardiac
13 monitor revealed sudden onset of brady-
14 cardia. A 'Code 25' was called,
15 resuscitation efforts were unsuccessful,
16 and she was pronounced dead at 0322
17 hours. Autopsy findings were consistent
18 with premortem diagnoses. At autopsy
19 a specimen of bloody fluid (blood,
20 edema fluid) was collected from the
21 peritoneal cavity."

22 Now, do you recollect on the 7th of January at about
23 7 in the morning Estrella having a respiratory arrest
24 and resuscitation being given to her?

25 A. Yes, I do.

Q. You do, all right. And if you look



1

2

at your WIN sheets there on the 7th of January --

3

THE COMMISSIONER: Which one?

4

MR. SHANAHAN: I'm sorry, this would
be the WIN sheets for 4A. This is Exhibit 335.

5

6

Q. I think you have it in front
of you, do you, Mrs. Bell?

7

A. Yes, I do.

8

9

Q. Mrs. Trayner would have been on
the long night shift that would commence on the 6th.

10

A. That's right.

11

12

Q. That would have commenced at
7 in the evening and be over around 7:15 the following
morning.

13

A. That's correct.

14

15

16

17

18

19

Q. At 8:20 that morning after she
is resuscitated a digoxin level is taken and it bears
out at 9.4. I think we have had evidence really it
bears out -- what they do is, they dilute two samples
that are 4.7 each and it is really somewhere greater
than 9.4.

20

21

In any event, that was taken at 8:20.
The dosage normally would be given at 9 at night and
another at 9 that morning.

22

A. Right.

23

Q. Am I right?

24

25



1

2

A. Unless we had a digoxin level
to be done that we knew of.

4

5

Q. All right. So, it is taken at
8:20 which would be 11-1/2 hours later almost after
the other prescribed dose at 9 the previous evening.

6

7

A. Right.

8

9

10

Q. And we have heard that that was
so there wouldn't be confusion over the readings. I
take it though that the order to hold it would be so
that the 9:00 dose wouldn't be given.

11

A. That night, right.

12

13

14

Q. All right. So, ostensibly it is
held for the next two days and the next two days, the
7th and the 8th, if you look at the WIN sheets Phyllis
Trayner is not on.

15

A. Right.

16

17

18

Q. And the results appear to be
dramatic because on the 8th down it goes to 7.8 and
the 9th down it goes to 4.7.

19

A. Right.

20

21

Q. All right. And that is just from
the facts I read to you. Then on the 9th and the 10th
Phyllis Trayner is back on.

22

A. Right.

23

24

25

Q. And the 11th she is on the long



1

2

nights.

3

A. Right.

4

5

Q. The baby dies on the long night
and do you know what we know, that in fact the reading
on that sample taken on Estrella was in the 70's?

6

A. I know of it now, yes.

7

10

Q. And would you agree with me as
well that that course with respect to Estrella having
an arrest when the digoxin level was greater than 9.4
and barely surviving and Phyllis Trayner being on.

11

A. Right.

12

13

14

15

16

Q. Phyllis Trayner being off, the
digoxin being held, the rate going down, Phyllis
Trayner coming back on, the baby dying shortly there-
after and the rate being I would say to you sky high
again, isn't that true again in terms of association
really something that is uncanny?

17

A. Yes.

18

Q. Yes, all right.

19

20

21

22

Now, in terms of another topic here
in terms of splitting up the group here. There seemed
to be a reference in October about Karen Power's
feelings that she didn't want to have any groups
split up.

23

A. Right.

24

25



1
2 Q. Well, where was Karen Power, was
3 she on one of the day -- she was on the other --
4 let me put it this way. If you and Trayner were
5 parallel shifts on 4A and 4B, parallel teams,
6 I gather that Karen Power and someone else were
7 parallel teams.

8 A. That's right.

9 Q. As well, all right. And you said
10 that you were aware they didn't want to split the
11 teams up but you didn't think it was anything that
12 was personal, was anything that was directed against
Nelles or Trayner, specifically Trayner.

13 A. That's right.

14 Q. Right. But I suggest to you that
15 that doesn't really bear off. After all, if they
16 changed teams they were still going to work in the
17 same hospital, they were still ultimately going to
18 work with the same group of patients, be they very
19 sick or not so sick, they were going to be infants
in cardiology, you will agree there.

20 A. Right.

21 Q. They were ultimately going to have
22 to do their two weeks on nights, their two weeks on
days, regardless.

23 A. Yes.
24
25



1
2 Q. In terms of the drugs, you are
3 still going to have to get over dealing with all the
4 drugs and digoxin no matter what your fears might be
5 about dispensing it.

6 A. Right.

7 Q. And your job responsibilities
8 either as a nurse or as a team leader that Karen Power
9 might be are still going to be the same.

10 A. Right.

11 Q. Really then the only thing that
12 would directly affect those nurses by having their
13 teams split up and having new combinations of
14 employees struck up there would be no change in the
15 wards, no change in the type of nursing they did, no
16 change in the kind of drugs or responsibilities, the
17 only change would be the association of new
18 personnel and specifically Nelles and Trayner.

19 A. If that was the idea of splitting
20 off people, you would split everyone up.

21 Q. Well, assuming that the idea was
22 that we worked with that same group of people, we
23 have picked them, we have put these people together
24 but we will change the combinations.

25 A. Right.

Q. I would suggest to you then that



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the inescapable conclusion is that these people

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didn't want to work beside Phyllis Trayner.

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A. No, I can't say that.

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Q. Well, will you agree that if you analyze it the way I have, you take out those factors that by splitting up the teams the ward is going to stay the same, the type of care.

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A. Right.

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Q. The only factor really that is going to change is who you work with. You are not now working with Bertha Bell or Karen Power or what have you, you are now working with Phyllis Trayner at the very least and maybe Susan Nelles.

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A. Right.

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Q. All right. And I would suggest to you again that really the inescapable conclusion is that it wasn't day shift or night shift that concerned them, it was that they did not want to work with Phyllis Trayner.

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A. I don't honestly think that was what was in their minds.

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Q. All right. And if I were to suggest to you that by October you agreed it was by October, late October, you have gone into Mrs. Costello and expressed your concerns that Phyllis



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Trayner's behaviour had become so odd and so strange, her seeking reassurance, vocal outbursts, all the other things that we have gone through here, that not only had you observed them but others had observed them and they wanted no part of working with her.

A. With her?

Q. Yes.

A. No.

Q. Was there a fear that if you went up there on the night shift and you worked with Nurse Trayner that given the way nursing works, be it constant care or shared care or having a number of babies, there was really no way that you could watch your baby full time and be sure that no one got to her or got to him and that that was the concern in terms of being associated with that team?

A. No, I don't think so.

Q. You don't think so. The meeting at Liz Radojewski's house. It has been pointed out it was outside of the Hospital for Sick Children and, as I recollect it, all other meetings were inside the hospital. Is it the only meeting that you can recollect between nurses at the time it was held outside the Hospital for Sick Children?

A. I believe there was a meeting held



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with Karen Power's team outside the hospital.

Q. You think so?

A. Yes.

Q. I will accept that, I am getting these nods here, people know the evidence better than me. All right.

THE COMMISSIONER: I'm sorry, was this a meeting to do what?

THE WITNESS: Again, it was with the stress of all the arrests. I believe they had had an arrest and we were going to discuss it.

MS. KITELY: It has been referred to several times in the communications book.

THE COMMISSIONER: Yes, when did it take place?

MS. CRONK: October 23rd, sir, 1980.

THE COMMISSIONER: Oh, yes, that one, yes.

MR. SHANAHAN: All right. That was the meeting with Karen Power saying that one of the topics is the splitting of the teams.

A. Yes.

Q. I see, all right. And that meeting was outside the hospital as well?

A. Yes.



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Q. Yes, all right. So, there were two meetings that you know of outside of the hospital.

A. That I can think of, yes, right.

Q. I take it that it wasn't really a common occurrence that as nurses you would take the time and effort that those even off work would later meet at somebody's house to have a meeting and discuss things, I would say it wasn't common.

A. Well, we had never had these circumstances before, so, I can't say whether it was a common occurrence.

Q. All right. Well, let me say to you then that really there was something secretive clearly about this meeting, that in fact it could have been held quite easily at a change of shift within the hospital, there were meeting rooms there. The fact that no one was told, that is, no police officers were subsequently told, and the fact it was held, as it was, off the hospital grounds, I am suggesting to you that in fact it was a meeting of nurses that was intended to be kept secret.



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A. I don't believe it was.

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Q. But --

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A. I believe the stress came
from the Hospital.

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Q. All right.

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A. And you could remove a bit of
the stress by taking the meeting to another place
like somebody's home and perhaps discuss the stress
that we felt that was imposed through Hospital.

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Q. But in fact it was kept a
secret?

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A. I don't know if it was kept
a secret. It wasn't intentional. It wasn't inten-
tional on my part and there was a number of people.
You have at least 10 people that know about a meeting.
I wouldn't refer to that as secretive.

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Q. All right. It was all nurses;
it was no doctors?

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A. There were no doctors there,
no.

Q. I suggest to you that a certain
frustration and then anger and even hostility and
right now I am not using it in the bad sense of the
word, hostility vis-a-vis the Hospital, Hospital
administration, how they were approaching the problem



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3 of the rising amount of deaths, that this frustration
4 and hostility and anger, if you like, came out at the
5 meeting.

6 A. Some frustration and anger
7 came out.

8 Q. I think there was a reference
9 to Karen Power in various notes. She really feels
10 they are not supportive. Was that right?

11 A. She felt that they weren't
12 supportive.

13 Q. By this time - I may be a
14 day out of sequence - by this time had you had the
15 episode with the supervisors coming in, new super-
16 visors, watching administration of the drugs, babies
17 being shipped off the ward and no further babies
18 admitted? Has that routine set in yet?

19 A. That is what caused the stress
20 for us to have this meeting.

21 Q. All right. I think that had
22 happened just that day, had it not?

23 A. No. It had occurred on the
24 Sunday.

25 Q. Sunday?

A. And the meeting was held on
the Monday night. So you would have the team that



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3 worked the Sunday days, you would have the team that
4 worked the Sunday nights, plus you would have the
5 teams that worked the Monday days, and that would
also affect the people that worked Monday nights.

6 Q. All right.

7 A. They would all be four different
8 teams.

9 Q. So it all had happened and all
10 the teams had experienced it, and you had this
11 meeting on a Monday night of nurses only at Liz
Radojewski's house?

12 A. Except for the nurses that
13 were at work Monday night.

14 Q. I suggest to you that in fact
15 the hostility and frustration right there is focused
16 on the Hospital and how the Hospital is approaching
17 this and you feel badly done by. You as a group,
18 badly done by by the Hospital that in some way your
19 professionalism, you as a team leader, the nurses in
20 terms of their competence were being called in to
21 question by these locking techniques, by these
22 double checks, by bringing the supervisors in and
23 by not bringing any more babies in for you to care,
24 and that there is the real hostility and the battle
25 line is drawn; that in fact it is now them versus us.



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3 A. I think the frustration came
4 from not knowing any of the reasons why those things
5 were being implemented. If we would be given a
6 reason for those implementations that occurred on
7 Sunday, like we had frustration going from that, yes.

8 Q. But I am suggesting, not just
9 the frustration, but I am suggesting as the meeting
10 culminates and Miss Power's anger and frustration
11 are not resolved, that in fact it is clear that a
12 lot of you are going to sit together as I think the
13 comment is made by Miss Nelles and you are going to
14 see it through together and there is this feeling
15 united we stand.

16 A. It is a feeling of support
17 during a stressful time, and the person that would
18 know the kind of stress that you would be under is
19 the people that you have been working with. And the
20 stress is felt all throughout, throughout the arrest,
21 the number of deaths, occurrences on that weekend,
22 so it was just a matter of support.

23 We had never been through anything
24 like this and we didn't understand. We didn't have
25 any answers. So I couldn't see going to anyone else
for support but somebody other than had been there.

Q. I am not suggesting you turned



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2 to the wrong people. I am suggesting to you how it
3 was resolved really was - and it was even vocalized -
4 that in fact you reached a pact that you would stick
5 together as nurses and that if anybody suspected you
6 were either incompetent or negligent, from then on
7 you as a group would stick together and you would
8 unite. And in fact Nelles brings up about legal
9 advice and somebody brings up about going to the
10 Nursing Association. Is that a fair summation?

11 A. No.

12 Q. I suggest you did stick
13 together from there on in and that your approach
14 that Mr. Hunt and Mr. Percival had spoken of with
15 the police officers is really just an extension and
16 a carrying forward of that agreement, if you like,
17 that you are going to stick together and you are
18 going to see it through.

19 A. That is not right.

20 Q. All right. And I would suggest
21 to you that the very fact that you can't even accept
22 Mr. Hunt's basic premise yesterday in a question
23 that in fact maybe these deaths are deliberate, and
24 if they are deliberate and before he could go any
25 further your position repeatedly was I can't accept
the basic premise that any nurse that I knew or worked



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2 with could deliberately do that.

3 And I suggest to you that even just
4 your refusal intellectually to accept that is part
5 of this pact, this agreement, that you are not going
6 to even entertain the thought that one of your fellow
7 nurses could have done this deliberately.

8 A. I don't believe it is part of
9 that pact that you are talking about, no.

10 Q. I would suggest to you that
11 the indiscretion of you even talking with Phyllis
12 Trayner about your evidence as recently as you have
13 is once again part of this --

14 MS. CRONK: I'm sorry, sir, that is
15 not the evidence of this witness.

16 THE COMMISSIONER: I'm sorry, I didn't
17 quite get the --

18 MR. SHANAHAN: Q. Did you not speak
19 with Mrs. Trayner recently --

20 THE COMMISSIONER: February the 2nd
21 I think, wasn't it?

22 MR. SHANAHAN: Q. Was it not brought
23 up about the fact that you were giving evidence and
24 going to give evidence about seeing her at an IV line --

25 THE COMMISSIONER: No, no.

MR. SHANAHAN: No?



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THE COMMISSIONER: I think the evidence was that she didn't discuss that.

MR. SHANAHAN: Q. You didn't discuss that? Can we clarify that?

A. That is right.

Q. All right. Let me go to ground level here.

Did you discuss anything about your evidence here at this Commission?

A. No. All that was said was that she was aware that I was being next at the Grange. She had heard through the media that I was the next person and that was it. We discussed our children, to each other, and that was it.

Q. So nothing - I hear all these comments here behind me, the Grange now is a place.

THE COMMISSIONER: I think it is an art gallery.

MR. SHANAHAN: All right.

THE COMMISSIONER: It is the right side of Yonge Street but the wrong side of University.

MR. SHANAHAN: Q. So the sum total is although there has been contact with Nelles and Trayner over the months, but specifically Nurse Trayner and this Commission, your evidence is that



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2 you have never discussed with her the way the
3 evidence has been developing?

4 A. That is right.

5 Q. What your evidence is that
6 you might give?

7 A. That is right.

8 Q. All right. But she has
9 certainly contacted you and she certainly knows you
10 are up and she was interested?

11 A. Yes --

12 Q. All right.

13 A. -- because we worked together.

14 Q. Just jumping for a second here.
15 You say that Trayner phoned you at home one morning
16 and told you that her team had been broken up and
17 I assume asked you had your team been broken up and
18 you said no it hasn't, and she said to you roughly
19 when you get in there can you see what else is up
20 and I will be calling you later and she does call
21 you later that day in the evening.

22 A. She had called me the night
23 just before I went in for long nights again.

24 Q. All right.

25 A. And had said that she was asked
to stay home --



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Q. All right.

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A. -- because of the high stress level on the ward, and had I or that I knew of anybody else on my team had they been asked to stay home.

I told her no, that as far as I knew I was expected to be at work, and she said, well, I will call you later if you know anything.

Q. She does call you later?

A. She does.

Q. You got two calls in the same day?

A. Same night.

Q. That Nelles or Trayner's team has been sent home?

A. Right.

Q. I would suggest to you too that the gist of it in both calls too is that Trayner isn't too appreciative of her team being disbanded and she being at home, even though it is with pay; she would like to be back in the firing line and back on the ward and acting as a nurse and working as a nurse and the team leader?

A. My feeling was she was not happy with the reason why --



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Q. All right.

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A. -- that she was being asked to
stay home.

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Q. All right. Not happy with
the reason why, and I would say to you the next
corollary of that is and would therefore prefer to
be back and express to you directly that she wanted -
that you were back and I want to be back and I
should be back there too.

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A. No.

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Q. I would think that if you are
under an awful lot of stress and had as many deaths
on your shift as Nurse Trayner, that in fact someone
suggesting to you, listen, take a breather, take a
few days off, it is on us, you will still get paid,
that would just be the right medicine and you
wouldn't be wishing to get back on the firing line
at all?

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A. But this stress had gone on
before that. The idea of the reason why they chose
this time was not there.

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Q. All right. As you have heard
just over the months about the deaths of certain
babies, Lombardo, Hines, Pacsai, Miller, Cook, some
babies who had normal hearts subsequently autopsied,



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some babies that were not prescribed digoxin but

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digoxin was found in their tissue and in their blood --

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A. Right.

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Q. Do you have any theory to offer

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us here - you wouldn't entertain from Mr. Hunt it

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might be deliberate - do you have any theory as to

8

how these deaths could have happened?

9

A. No, I don't.

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Q. No? Do you think it might be errors?

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A. I don't know.

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Q. You don't know. I know that;

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we don't know either, but do you think it might be errors?

14

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A. I don't know. I would have to be an expert in many areas.

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MR. SHANAHAN: Yes. All right.

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Thank you very much.

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THE COMMISSIONER: Thank you,

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Mr. Shanahan.

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Mr. Ortved, what do you want to do?

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MR. ORTVED: I can complete my

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cross-examination by one o'clock.

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THE COMMISSIONER: Okay. Let's do

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that.

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2 CROSS-EXAMINATION BY MR. ORTVÉD:

3 Q. I am Neils Ortvéd and I act
4 for certain of the doctors at the Hospital, Mrs. Bell,
5 and I am going to be very, very brief you will be
6 glad to hear.

7 I want to take you to your interviews
8 with the police, specifically the two interviews
9 that you have told us occurred in relation to Baby
10 Miller and Baby Estrella. Do you recall those?

11 A. Right.

12 Q. And specifically I want to
13 take you to that portion of your meeting with
14 Constable Murray at the time that you asked him
15 whether he was still considering other suspects.
16 Do you recall that?

17 A. Yes.

18 Q. And you told us that your
19 reason for asking that question was to ascertain
20 from him whether that was so because of your concern
21 about the babies on the ward?

22 A. It was.

23 Q. That was a query that came
24 from you; not from Constable Murray; is that correct?

25 A. He had said do you have any
questions, and that was one of my concerns, so the



1
2 question came from me.

3 Q. All right. And as to whether
4 or not there was consideration of other suspects
5 was your question, not something that came from
6 Constable Murray?

7 A. Right.

8 Q. And his response you have told
9 us in answer to that query on your part was "You
10 would be surprised by the evidence that we have";
11 is that right?

12 A. The word "surprise", definitely,
13 yes.

14 Q. Is that something you recall
15 specifically?

16 A. Yes, it is.

17 Q. And what did you take it that
18 he meant by that? That they had a lot of evidence or
19 not very much evidence?

20 A. Obviously that they had evidence.

21 Q. That they had a lot of evidence?

22 A. Right.

23 Q. And it wasn't explained?

24 A. No.

25 Q. I take it that you assumed
that it wasn't your business to ask what the evidence



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2 was against the suspect that they had arrested?

3 A. I believe he said he couldn't
4 go into it.

5 Q. All right. And I take it that
6 that would just be natural as far as you are concerned
7 that you weren't necessarily entitled to know the
8 evidence they had?

9 A. Well, I am the person that
10 goes and give information and he is the policeman
11 that does the investigating, so...

12 Q. Right. And I take it from what
13 little you know about police investigations it
14 wouldn't surprise you that Mr. Murray was not in a
15 position to provide you with the details of the
16 information they had?

17 A. I know nothing of police
18 investigations. Right.

19 Q. Did you take it from that
20 answer that they were satisfied with the suspect
21 that they had in fact arrested?

22 A. I would think so, yes.

23 Q. Was it your impression arising
24 out of that comment made by Inspector Murray that
25 he was interested in any speculation on your part
regarding suspects other than Miss Nelles?



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A. There was no invitation for speculation, no.

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THE COMMISSIONER: I'm sorry, your question was what? Did you take it he was interested?

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MR. ORTVED: That is right.

7

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Q. Was it your impression that he was interested in having you speculate about suspects other than Miss Nelles?

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THE COMMISSIONER: And what was your answer to that?

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THE WITNESS: No.

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THE COMMISSIONER: You would take it - what does that mean?

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THE WITNESS: There was no invitation to speculate on anybody else.

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MR. ORTVED: There was no invitation to, but what was your impression, that he wanted you to or not?

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A. No.

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Q. And then going to the meeting you have told us about with Sgt. Warr - well, let me just ask you in relation to investigating murders, this is something that you don't have any experience in? Right?

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A. That is right.

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Bell, cr.ex.
(Ortved)

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Q. That is something in which I
take it you in the context of that interview with
the police assumed that they had expertise and you
did not?

A . Yes.



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Q. Going to your meeting with
Constable Warr, was it on that occasion that you,
according to your best recollection, think that you
volunteered to him that it wasn't your impression
that Susan Nelles had been on the shift that Baby
Estrella had died?

A. Right.

Q. And was that in fact something
that you volunteered to Sergeant Warr?

A. I had said it, yes.

Q. Because it was a concern you had,
I take it?

A. Right.

Q. I take it it was a concern you
had because you were not convinced in your own mind
that Susan Nelles was necessarily responsible for
the death of Baby Estrella, is that right?

A. I couldn't place her there,
that's right.

Q. So whatever else you may be
criticized for, whether rightly or wrongly, you did
volunteer at least that item of information to the
police, correct?

A. Correct.

Q. And I take it that one of your



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purposes in volunteering that to him was to suggest to them that they might perhaps consider persons other than Miss Nelles, right?

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A. Right.

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Q. And what was the response on the part of Sergeant Warr?

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A. There was no response.

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Q. In fact there was no interest whatever?

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A. That's right.

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Q. And I am just curious, because I don't have that statement, can you assist me, you have reviewed it, as to whether that particular comment on your part found its way into your statement?

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A. No, it didn't.

15

Q. It didn't?

16

A. No.

17

Q. You have reviewed it, have you?

18

A. Yes, I have.

19

Q. It is not there?

20

A. That's right.

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MR. ORTVED: Thank you, those are all my questions.

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THE COMMISSIONER: Fine, thank you.

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Then we will rise until 2:30.

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MS. CRONK: Can we take a time
estimate, Mr. Commissioner?

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THE COMMISSIONER: Well, we can do
that and see what the situation is. Mr. Roland has
no questions?

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MS. THOMSON: No, sir.

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THE COMMISSIONER: Mr. Knazan?

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MR. KNAZAN: No questions.

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THE COMMISSIONER: Mr. Labow?

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MR. LABOW: Twenty minutes to half an
hour.

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THE COMMISSIONER: Mr. Tobias?

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MR. TOBIAS: Half an hour, Mr.

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Commissioner.

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THE COMMISSIONER: We might, we might,
but what happens if we don't, how long do you think
you will be, Miss Kitley?

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MS. KITLEY: I will be at least 30
minutes and maybe longer.

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THE COMMISSIONER: I think probably
what we will do is, I don't think we can finish, and
it is too late to suggest that we go on tomorrow. I
think we will just have to probably stand over all
the re-examination until Monday, but if we do get
through it - because Mr. Brown has some questions



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and perhaps some of the other counsel might want to
have some other questions.

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MS. CRONK: I asked if we could get
the schedule because of bringing witnesses for Monday
morning.

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THE COMMISSIONER: Yes, but whatever
it will be it will be some time on Monday we will
proceed with the next witness.

8

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Yes, Miss Kitley?

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MS. KITLEY: Excuse me, sir, by re-
examination do you mean both Ms. Cronk and I?

12

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THE COMMISSIONER: I meant you, I was
just asking you.

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MS. KITLEY: You said all re-examination
on Monday.

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THE COMMISSIONER: I think so, but I
am not going to promise that, I am not going to
guarantee that. If things go faster I want you to be
ready to go and I want Miss Cronk to be ready to go.

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MS. KITLEY: I am ready.

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THE COMMISSIONER: And if we are
getting close to completing we will complete. If on
the other hand we are not close and it comes pretty
close to 4:30 and neither you nor Miss Cronk have
been called on, then I will put you both over until



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Monday morning.

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MS. KITELY: Thank you, sir.

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THE COMMISSIONER: All right, until

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2:30, then.

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--- Luncheon recess.

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---Upon resuming at 2:35 p.m.

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THE COMMISSIONER: Yes, Mr. Labow.

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MR. LABOW: Thank you, Mr. Commissioner.

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Good afternoon.

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THE COMMISSIONER: Are you, is this --

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MR. LABOW: My turn, apparently.

8

THE COMMISSIONER: Yes, I am delighted to see you, but it isn't your turn, is it?

9

MR. LABOW: Mr. Knazan doesn't have any questions.

10

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THE COMMISSIONER: Oh, I beg your pardon, it is your turn, then, I take it back.

12

CROSS-EXAMINATION BY MR. LABOW:

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Q. Good afternoon, my name is Steven Labow and we represent the parents of six of the children named in this time period. The only child that we represent that you seem to have any recollection about was Paul Murphy.

18

A. Right.

19

Q. Who died on the 23rd of August.

20

A. That is right.

21

Q. And you were apparently on the long night shift on the 22nd.

22

A. I was.

23

Q. And did you know Paul Murphy

24

25



1

2

from before?

3

A. I had from 5A.

4

Q. You told us that Mrs. Trayner
told you that he wasn't doing well.

5

A. Yes.

6

7

Q. Do you recall when she told you
that?

8

A. No.

9

10

Q. Did she indicate anything
specific was wrong with Paul Murphy?

11

A. I don't recall anything specific
right now, she could have.

12

13

Q. Now, he was in the hospital on
this occasion four or five days, do you recall seeing
him at all before the night of the 23rd?

14

15

A. I knew he was in there but I
don't think I saw him the long night of the 23rd.

16

17

Q. Did you go in when he first
arrested?

18

19

A. Yes, I did.

20

Q. Did any of the nurses indicate to
you how he had been just prior to his arrest?

21

A. Just a few minutes before you mean?

22

Q. Yes.

23

A. The nurse that was looking after

24

25



1
2 him had said that he was sitting up and speaking to
3 her one minute and then he just sort of stopped and
4 closed his eyes and there was nothing.

5 Q. Did she say that it was unexpected?

6 A. I guess in the manner that he
7 was sort of speaking to her one minute and the next
8 minute he wasn't, yes, that would be unexpected.

9 Q. Was that somewhat unusual for a
10 child in his condition?

11 A. I don't think so, no.

12 Q. Now, you knew Phyllis Trayner
13 well from Ward 5A prior to the move?

14 A. We had worked together occasionally.

15 Q. Did you know most of the nurses
16 on 5A?

17 A. Yes.

18 Q. Now, prior to moving down to
19 Ward 4A/B you have indicated that on a number of
20 occasions that Mrs. Trayner's lack of assessment and
21 being too quick to institute cardiopulmonary
22 resuscitation and things like that, did they also
23 occur on Ward 5A?

24 A. Not that I was aware of, no.

25 Q. Did the fact that Mrs. Trayner
required a lot of reassurance, is that something that



1

2

came to your attention on Ward 5A?

3

A. I didn't work with her as closely

4

on 5A as I did on 4A/B, so I wouldn't know.

5

Q. Did it come to your attention?

6

A. On 5A?

7

Q. On 5A.

8

A. No.

9

5A?

10

A. I think occasionally.

11

Q. But not very often.

12

A. No.

13

Q. Did you ever hear when you were

14

on 5A any indications that she sought too much re-
assurance?

15

A. No.

16

Q. That she was very vocal?

17

A. No.

18

Q. Or that she may not assess things

19

to a great enough degree for things like this?

20

A. I hadn't heard anything like that

21

on 5A.

22

Q. So the first time you had heard

23

anything like this was after you had moved down to
4A/B.

24

25



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A. Once I started working with her,

3

yes.

4

Q. You indicated that you were on

5

the same rotation.

6

A. Right, on 4A/B.

7

Q. Did that mean that the teams worked

exactly the same schedule at all times?

8

A. Pretty well, allowing for

9

holidays or days off, yes.

10

Q. Now, aside from holidays or days

11

off of particular members of the teams, did the teams

12

work exactly the same schedules?

13

A. Yes, they did.

14

Q. Could you look at the WIN sheets

15

for the weeks of March 2nd and March 9th.

16

THE COMMISSIONER: Both?

17

MR. LABOW: Yes, Mr. Commissioner,

18

both 4A and 4B.

19

Q. I am looking at the 4B WIN

20

sheets first.

21

A. Right.

22

Q. Your team was working long nights

23

on the 6th of March.

24

A. That is right.

25

Q. And long nights on the 7th of

26



1

2

March.

3

A. Right.

4

Q. And long nights on the 8th of

5

March.

6

A. That's right.

7

Q. But not the 9th or the 10th of

8

March.

9

A. That's right.

10

Q. But they worked the 11th and the

11

12th.

A. The 11th and the 12th, right.

12

Q. But not the 13th.

13

A. No.

14

Q. And would you look at the 4A

WIN sheets, please?

15

A. Okay.

16

Q. Mrs. Trayner's team was working

17

the same five out of those seven nights.

18

A. That's right.

19

Q. Now, we have heard that you were

20

not on in that time period, according to the WIN
sheets.

21

A. Right.

22

Q. We have heard that there were

23

seven deaths in the period that you were not on between

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those dates, you came back on the 16th, is that correct?

A. Right.

Q. Now, we have heard what the Atlanta people referred to as "suspicious deaths".

A. Right.

Q. Now, of those seven apparently six were suspicious deaths, Colleen Warner who died early in the morning of the 7th of March; Jordan Hines who died early in the morning of the 8th of March; Barbara Gionas who died early in the morning on the 9th of March; Kevin Pacsai who died late at night on the 12th; Michelle Manojlovich on the 12th; and Kristin Inwood early on the 13th. Now, my review of the assignment book and the charts indicates that Jordan Hines, Michelle Manojlovich and Kristin Inwood were all on 4B when they died; and that Kevin Pacsai was in ICU but had transferred from Ward B.

A. Right.

Q. When you arrived back on the 16th, did the nurses on your team who had been on --

A. Yes.

Q. Come to you to discuss that large number of deaths in such a short period of time?

A. Yes.



1

2

Q. Were they very upset?

3

A. Yes.

4

Q. Who discussed it with you?

5

A. Mary Jean Halpenny who would
be the team leader when I am off.

6

7

Q. Is she the only one who discussed
it with you?

8

9

A. Well, there was discussions from
other people as well.

10

11

Q. Well, what kind of discussions
took place?

12

13

14

15

16

A. Well, she had said that Mrs.
Manojlovich was very upset at the death of her child
and they were really having a difficult time in dealing
with her. There was a problem with Inwood and the
digoxin that Inwood had gotten I believe, and that
Pacsai had died.

17

18

THE COMMISSIONER: You mean the mistaken
digoxin?

19

20

21

22

23

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THE WITNESS: Yes, the drug error.
And that it was Mary Jean that had made the error.
There was also -- she had mentioned that Pacsai had
arrested on the floor but went to the unit and there
was something about a potassium level about that
child.



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Q. Now, because of these discussions did you make further inquiries into these deaths?

A. No, I didn't.

Q. Did you note, for example, that the two nights that these two teams were off no deaths occurred?

A. No, I didn't.

Q. Did you note that that meant that for the five nights that these two teams were on six deaths occurred?

A. No.

Q. So it didn't occur to you that there had been six deaths in five nights that these two teams were working?

A. No.

Q. Did it occur to anyone else that there had been as large number of deaths when these two teams were on, but in the period of time they were not on there were no deaths?

A. The concern was that there were a number of deaths, and the concern was over one of the parents, but no numbers were discussed as to how many died in how many days.

Q. Did you think to possibly check the assignment book to see where the children were,



1

2

or who was looking after them?

3

A. No, I didn't.

4

Q. Did anyone to your knowledge?

5

A. No.

6

7

8

Q. Did any of your -- any of the
nurses who were under you as team leader express any
specific concern just regarding that cluster of
deaths in that short period of time?

9

10

11

12

A. Again, it was Mary Jeanne that
raised the concern about each one of the children
that I have mentioned, about Inwood and Pacsai and
Mrs. Manojlovich.

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Bell, cr.ex.
(Labow)

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Q. Well, aside from specific concerns relating to each child and aside from just the overall stress question was there a concern with all these children dying that maybe something was wrong?

A. There was a concern over their deaths.

Q. I understand that. Was there a concern that maybe you should check medications to see if there was something wrong with the medications they were giving?

A. No.

Q. That there was an infection going around?

A. No.

Q. Now, you indicated in your previous testimony that this cluster of deaths was discussed with Phyllis Trayner and Susan Nelles?

A. Yes.

Q. Was it discussed with anyone else on Trayner's team?

A. It was discussed with the teams, actually, both teams; it wasn't specific just to Susan and Phyllis.

Q. Did you have a formal or



informal get together of both teams to discuss it?

A. It was an informal - I wouldn't call it a meeting. There was an expression of everyone's concerns about these deaths, anyone who was involved who was working those nights.

Q. When was that?

A. It was some time during that night but I can't remember.

Q. During the night of the 16th?

A. Yes.

Q. Did you get together at the nursing station?

A. We could have.

Q. Well, do you recall if there was a particular spokesperson amongst you, anyone who was most upset about this large number of deaths?

A. No, I think everyone was upset by them.

Q. And was this still just this stress situation?

A. I think so.

MR. LABOW: I have no further questions.

THE COMMISSIONER: Fine, thank you.

Mr. Tobias?



CROSS-EXAMINATION BY MR. TOBIAS:

Q. Good afternoon, Mrs. Bell, my name is Warren Tobias and I act for the family of Jordan Hines.

I would like to discuss with you just for a few moments some of the evidence that you have given over the last few days regarding the general routine on the wards and the routine particularly with respect to team leaders and ordinary nurses who were working on the wards.

I understand that on Monday you indicated to Ms. Cronk that it was the usual practice that both team leaders, that is, the team leader on Ward 4A and on 4B would be aware of which patients on the other team leader's ward were the most seriously ill. Do I have that evidence correctly?

A. Yes.

Q. So that you would exchange that information I take it usually at the beginning of the shift of just shortly after the shift had begun?

A. Depending on how the night was going; it was some time during the night.

Q. All right. Now, as the team leader over the long night nursing shift particularly, as team leader you were really in charge of nursing



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activities on that ward were you not?

3

A. Correct.

4

Q. So that although the general

5

responsibilities were in effect your responsibilities,

6

whereas, an ordinary nurse would have her own

7

specifically assigned duties and obligations?

8

A. She would have duties specific

9

to particular patients.

10

Q. But what I'm saying is that

11

an ordinary nurse would be responsible for her

12

specific assignment?

13

A. Right.

14

Q. Not for the general administra-

tion of nursing care on that floor?

15

A. That's right.

16

Q. Do I take it from that then

17

that as a practical matter that generally the other

18

nurses wouldn't necessarily have that same information

19

with respect to which patients were the most critically
ill?

20

A. That is right.

21

Q. Okay. Now, I don't mean to

22

suggest that they would never have that information

23

because I would take it that in the ordinary course

24

of events you would sometimes through conversation

25



B5

1
2 communicate that to them but there was no formal
3 procedure whereby you had to make every nurse on
4 your team aware of the status of all the patients on
5 the ward and sort of rank them in terms of who was
6 the most serious and least serious?

7 A. That's right.

8 Q. Do I have that right?

9 A. That's right.

10 Q. All right. Now, you also
11 indicated the other day that in terms of doing your
12 own rounds that you would receive the report and
13 then do your rounds and then you indicated that
14 later on in your shift you might do other rounds,
15 but that there was no set time for that?

16 A. That's right.

17 Q. All right. So that basically
18 you pretty much, if I can use a colloquialism,
19 floated. Unless you had a specific patient to care
20 for at a specific time there would be nothing unusual
21 about you being in any particular room on your ward?

22 A. That's right.

23 Q. Because you were overseeing
24 the whole operation?

25 A. That's right.

Q. Now, I also take it that there



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would be nothing unusual or untoward about you looking in on children on Ward 4A as well?

A. That's right.

Q. And by the same token I would take it that over the long night nursing shift there would be nothing untoward whatsoever about Mrs. Trayner looking in on children on Ward 4B?

A. That's right.

Q. All right. Now, what kinds of things would you do with respect to children on Ward 4A when you were just looking in on them? I know you have given some evidence for instance with Allana Miller that when you entered her room and there were no other nurses present, if the cardiac monitor went off you would check her vital signs?

A. That's right.

Q. All right. Now, what other kinds of things would you do for patients on Ward 4A just as a matter of having been there in the course of your rounds?

A. If there was a change in the child because the child was spitting up or whatever, I would clean up the child or whatever need arose, if I did go over to the 4A side I could ask the team leader on the other side, you know, how her children



1
2 were doing, if there was any concerns that she had
3 about her kids.

4 Q. Well, okay, my point is really
5 something a little bit more basic than that. Let's
6 say all the child needed was some settling down and
7 you happened to be there at that time, the child
8 was restless, the child was upset.

9 A. Oh, I see.

10 Q. The child was crying. There
11 would be absolutely nothing unusual whatsoever for
12 you to be over on the 4A side attending to that child,
13 to handle the child, to make the child more comfort-
able?

14 A. That's right.

15 Q. And I take it that that also
16 goes in reverse, that there would be nothing unusual
17 about Ms. Trayner being on the 4B side doing those
very same kinds of functions. Do I have that correctly?

18 A. Right.

19 Q. Okay, fine. You also indicated,
20 I believe it was on Monday, that you were generally
21 in the habit of making your rounds alone. Do you
22 know if that was also Ms. Trayner's habit?

23 A. I can't speak for her.

24 Q. Okay, fine. Can you speak for
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any of the other team leaders? Do you know if they generally had other nurses with them when they made their rounds or whether they would have done that alone?

A. I can't say for sure, but on nights it would just be the team leader because the other nurses would probably be busy with direct nursing care.

Q. Well, really, that was my next point. I take it that since the other ordinary nurses had specific duties that they were obligated to discharge and look after, they really didn't have time to accompany you on your rounds?

A. Right.

Q. All right. And I take it that because that is just a general principle, a commonsense principle, basically we would assume the same thing would apply over on side 4A. Do I have that correctly?

A. On nights it would, yes.

Q. Okay, fine. Now, was there any requirement that a team leader would have to make a formal report of some sort after her rounds? Was there some type of form that would be filled out that would be specific to what that team leader observed



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3 or did on her rounds?

4 A. No, but she might informally
5 write down if there was any changes or if there was
6 a change in a patient's condition you could write
7 it down to report it to the doctor or to call the
8 doctor but there was nothing formal, no.

9 Q. Okay, that would be informal
10 and discretionary?

11 A. That's right.

12 Q. So, there was absolutely no
13 requirement whatsoever that you are aware of for a
14 team leader to in any way report to her superiors
15 or to account for her time or what she was doing on
16 her rounds?

17 A. That's right.

18 Q. Okay. And that again I take
19 it is because it is obviously a management position
20 and a certain amount of discretion goes with that,
21 am I correct?

22 A. That is correct.

23 Q. Okay. Now, on weekends would
24 it be the team leader herself who would make up the
25 individual nursing assignments?

A. It would be on the weekends,
yes.



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Q. Okay. And when would she do that?

A. She would make it up pretty well after she had gotten report or some time after she had gotten back from her rounds.

Q. All right. Now, here is what I am slightly confused about. If you were on a long night shift.

A. Right.

Q. On Saturday night.

A. Right.

Q. You and your team would come on, would it be at 7:15 in the evening?

A. Yes, we start at 7:15.

Q. And you would be there until 7:15 in the morning?

A. At least.

Q. Now, when you came on on that Saturday evening was there already assignments that had been made up?

A. Yes, there was.

Q. All right. Who made those up?

A. Whoever was in charge on days.

Q. Okay, and that would be the



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team leader because the head nurse wouldn't be
working weekends?

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A. That's right.

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Q. So that what you are really
saying is that although team leaders made up the
assignments on weekends.

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8

A. Right.

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Q. They wouldn't necessarily be
making up the assignments for their own team; in
other words, when you came on at 7:15 on Saturday
night after you had received the report you would be
making up the assignments for the long day shift to
start on the Sunday. Do I have that correctly or
have I misunderstood?

15

16

17

A. I am sorry, if I was on long
nights, if there were any changes that had to be
made to the assignments, I would make it for the
long nights.

18

19

20

21

Q. Yes, I understand that.

A. And it was generally the team
leader on days that would make the assignment for
the night and the next day.

22

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Q. I see, okay. So that basically
if you were on long nights you wouldn't actually be
making up the individual assignments, what you would



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be doing at the start of your shift is altering the plan of assignments that had been made by the nurse in charge on the shift prior?

A. Well, reviewing it and altering it as necessary.

Q. Okay. Again, I take it from what you have said to Miss Cronk and what was said to Mrs. Costello that that was an area again where you had a pretty wide discretion in terms of changing the assignments that had already been prepared?

A. Right.

Q. Okay. And that would involve not only the moving around of the nurses from one room to another and the changing of what patients they were caring for, but I take it that would also have something to do with what their specific duties were with respect to a patient?

A. Right.

Q. Okay, fine. How about constant nursing care assignments. Did you have any authority to assign someone to constant nursing care at the start of your shift on weekends?

A. I would approach the doctor and I would be discussing it with the doctor.

Q. Okay. Can you recall now of



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3 any situation not necessarily just in our nine-month
4 period but any time that you were at the Hospital
5 where you would have assigned someone to constant
6 nursing care without approaching the doctor?

7 A. It could be done if a child's
8 condition had changed and there was concern this
9 other nurse would stay in the room and then it would
10 be discussed with the doctor but he would run into
11 the problem that you would run into staffing problems
12 obviously and then it would have to be discussed
13 further with the supervisor as far as staffing the
14 rest of the floor.

15 Q. Well, as I understood
16 Ms. Costello's evidence, the obligation to discuss
17 it with the nursing supervisor was an obligation
18 that only arose when there were staffing problems.
19 If you could accomplish the assignment of constant
20 nursing care, given the numbers that you had working
21 there, you didn't have to discuss it with the nursing
22 supervisor. Do I have that correct?

23 A. If you could work the numbers
24 right and you could have the other children covered
25 adequately, yes.

Q. All right. Now, let's get back
to this situation where times constant nursing care is



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assigned without speaking to the doctor. I take it from your previous answer that did happen from time to time?

A. It would, yes.

Q. Now, would that be a very unusual thing, a very rare thing or would it be fairly common place?

A. It would be fairly common because the child's condition could change so readily.

Q. All right. And again that is part of the discretion that you had to exercise in terms of your management obligation?

A. And the nurse at the bedside as well.

Q. Fine. You also gave evidence the other day regarding long breaks for constant nursing care nurses. Now, do I take it that when you were discussing that with Ms. Cronk, what you were referring to was lunch breaks, dinner breaks, coffee breaks, as opposed to someone just having to leave the room for three or four minutes?

A. Yes.

Q. Okay. I understood your evidence to be, please correct me if I am wrong,



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that it was the usual and the normal practice over a long break for the team leader to relieve that nurse?

A. Pretty well, yes.

Q. And that there was no formal record necessarily kept of that; in other words, if I looked at the 4A/B assignment book and made a note of what nurses were on constant nursing care on any given night, nothing in that record would show me who relieved them on that night?

A. That's right.

Q. So, that was a pretty informal arrangement I take it?

A. Yes, it was.

Q. And the upshot of that would also be, and correct me again if I am wrong, that with respect to any patient receiving constant nursing care, the only person other than the nurse assigned to him who would be with him through that shift would be the team leader?

A. It could be but you would have to look at the staffing again.

Q. Okay, fine, and that's fair. But I take it from what you said before that it was the normal thing for the team leader to relieve for



BB16

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long breaks?

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A. On nights, generally it would
4 be.

5

Q. On nights generally, okay.

6

So, that was fairly common place?

7

A. It was.

8

Q. Okay. So, again, save and

9

accept for some of those exceptions where it may
have on occasion been someone other than the team

10

leader, if we have a patient who is on constant

11

nursing care during that shift the only nurses with

12

him are either the ordinary nurse assigned to his

13

care or the team leader?

14

A. Right.

15

Q. Okay, fine. Now, would it

16

happen from time to time that a team leader relieved

17

an ordinary nurse who was on constant nursing care

18

and she herself required some relief during the

19

period of that break?

A. It could happen, yes.

20

Q. Because after all if for

21

instance you were relieving one of your nurses who

22

were having a lunch break or a dinner break, what

23

would happen if your attendance was required else-

24

where due to some emergency? I take it that you

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would just call out to anyone who was handy to
come in and relieve you?

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A. That's true.

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Q. Now what would you do if no one was available to relieve you and you had a situation which absolutely required your attention elsewhere?

A. There were always nurses on the floor on long nights, and I can't see that situation arising.

Q. Did the situation ever occur where a patient who was assigned constant nursing care may have spent a matter of a few moments, two or three minutes, without a nurse being in that room? I mean did that happen from time to time?

A. I suppose it is possible, but it is not supposed to.

Q. I understand --

A. Because constant nursing care means --

Q. I know it is not supposed to and I understand why it is not supposed to happen, but let's deal with the real world and the realities of having to care for these patients over the course of a long night nursing shift. I think you would have to agree with me that at times that could very well have happened?

A. It could.

Q. Okay. Was it something that



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would happen again only very, very rarely or would it
happen quite commonly?

4

A. It would happen very, very rarely.

5

Q. Okay. Fine.

6

You also gave evidence the other day
with respect to the borrowing of drugs between Wards
4A and B, and I believe your evidence was that no
formal record was kept.

9

Do I have that correctly?

10

A. Yes, unless it was a narcotic.

11

Q. Okay. Fine. And that also

12

applies, I take it, to drugs that you might have to
take from another ward. Let's say 7G?

13

A. Again unless it was a narcotic, yes.

14

Q. So again the arrangement with

15

respect to the transferring of drugs back and forth

16

unless it was a strictly controlled narcotic would be

17

fairly informal?

18

A. Yes.

19

Q. You were supposed to advise the

20

team leader that you had taken drugs out of that

21

medication cabinet, but if you got busy and forgot to
it was no great sin?

22

A. That would happen.

23

Q. Isn't my understanding basically

24

correct?

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CC.3

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A. That is right.

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Q All right. So that if a team

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leader or for that matter an ordinary nurse on Ward

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4A were to be seen, for instance, in the medication

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room of Ward 4B, or vice-versa, I take it that there

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wouldn't be anything unusual about that?

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A. No.

9

Q Okay. I also take it there

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would be nothing unusual in and of itself for a 4A

nurse to be seen on the ward in 4B or vice-versa?

11

A. That is right.

12

Q Okay. Fine.

13

So again we have to understand that the
arrangements, the physical division of these two wards,
was really a pretty informal thing?

15

A. Yes, it was.

16

Q And I also take it - I think it

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has been established before this Commission but I just

18

want to know if you would disagree with me - as we

19

look at that ward, and we have a diagram on the board

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there, it is really not that large a ward, is it in

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terms of the overall distances?

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A. You could say that.

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THE COMMISSIONER: That is a relative
term.

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MR. TOBIAS: I know. Let's put it this way: Is it bigger than a breadbox if I could use that old one?

THE COMMISSIONER: Well, I don't know what you mean by that. Do you mean that it is not --

MR. TOBIAS: Well, let me --

THE COMMISSIONER: I wish I had taken a tape measure when I went there.

MR. TOBIAS: Well, I certainly don't want a tape measure, and I am probably the first person here who needs glasses. I will try and eyeball it.

I am going from my own recollection which is a little bit shaky.

Q But I suppose in terms of the gross floor area if you can understand that lawyer's terminology, it would not be much bigger in total really than maybe twice the size of this room, would it?

A I have no idea.

THE COMMISSIONER: The trouble with that question is somehow or other I don't know what the size of this room is, and certainly the record doesn't.

MR. TOBIAS: Well, if I can be candid with you quite frankly I am almost sorry that I asked



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the question. I seem to be getting in deeper and deeper. I am not sure that it was that important or that anything turns on it.

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Q I take it it is smaller than a football field isn't it?

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A There is a scale on the map, there.

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Q Okay. Well perhaps I will just leave it up to the Commissioner to wrestle with that scale on one of these long weekends that he spends here in the city.

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Now I also understand that there were situations wherein a nurse other than the nurse who administered a medication would sign the medication treatment record indicating that the medication had been given. Do I have that correctly?

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A Yes.

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Q Okay. And I also understood your evidence yesterday to be to this effect, and I am paraphrasing, that in effect Nurse A could give a drug but sign Nurse B's name.

30

Now I believe your evidence yesterday was that that wasn't supposed to happen but it did happen from time to time?

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A Nurse B could sign and Nurse A could have given it.



CC.6

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Q. Okay. Well, I am really asking
the opposite question.

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We have got Nurse B responsible for
giving it and she is supposed to give it. But in fact
she is busy. She is doing something, so Nurse A does
her a favour and Nurse A gives it. I understood you
to be telling us yesterday that when that happened
oftentimes Nurse A would sign in Nurse B's name?

9

A. No, she wouldn't.

10

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Q. All right. Now do I have it
wrong, that isn't what you said yesterday or are you
telling me --

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THE COMMISSIONER: No, I think what she
said --

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MR. TOBIAS: Or are you telling me that
is not what happened?

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THE WITNESS: Apparently what happened,
the example we had, is that Nurse B was supposed to
give it, would pass the task on to Nurse A and then
would sign her own name, that is Nurse B's name.

20

MR. TOBIAS: Okay, fine.

21

22

THE COMMISSIONER: My complaint was
that that is not the fact, and my respectful view is
it should not happen.

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MR. TOBIAS: Okay. Fine.

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CC.7

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THE WITNESS: That is right, it shouldn't.

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A. No.

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Q. Without noting, you know, per and
the initials?

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A. No.

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Q. So that would never happen as
far as you know?

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A. As far as I know, no.

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Q. And that would mean it would be
pretty difficult really to administer a drug to someone
and record on the chart someone else had given it? I
mean you would have to be clearly breaking a regulation
in order to do that and you would know that you were
breaking a regulation that you weren't supposed to?

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A. Right.

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Q. And your evidence is that didn't
happen?

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A. Right.

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Q. At all?

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A. Right.

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CC.8

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Q. Okay. I would also like to ask you about Baby Perreault, and particularly there has been some questions asked of you over the last couple of days, and it was the subject of some cross-examination with respect to Mary Costello centering on the behaviour of Phyllis Trayner.

Now I don't want to belabour the point, but I would like to discuss it in more specific terms than we have to date rather than in generalities.

I was struck by the evidence you gave that with Baby Perreault you came into his room, Phyllis was in the room, and asked you to come in with her; his respirations you said were very shallow, and I believe your words were "She wanted someone with her".

I am not quite sure that I understand what you mean by that or what you make of that. Why was it that she wanted someone with her? Was there something that she was afraid of or concerned about or what did you understand to be her motive for wanting you to be there with her?

A. There was a do not resuscitate order written on this child's chart, and basically that means not to actively try and intervene with the child dying. So what you are trying to do is make



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the child as comfortable as you possibly can, and it is very difficult I think for anybody and nurses in particular to just hold on to a child and not actively do anything. But on the other hand you have to make the child as comfortable as you possibly can and I think that is very hard to face that.

Q. Yes.

A. It is just that --

Q. Are you telling me that is why she needed company?

A. I think she needed support of somebody with her. It is very hard to let a child die in your arms.

Q. All right.

A. Now I think if you had a friend nearby you would ask them to be with you.

Q. All right. I think I can understand what you are saying.

Aren't you really saying that it wasn't that she needed you there in order to render nursing care for any specific nursing function, but what she required was someone to share with her the burden of that emotional trauma? Isn't that really what you are saying, to share the experience with her and make it perhaps less burdensome rather than be alone while that was going on?



CC.10

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Now is that what you are telling me?

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A. I guess to share it. I wouldn't

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call it a burden.

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Q. All right. Well, I apologize for

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my choice of words, but I think we understand the
concept.

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Now was that something you saw

8

exhibited by Phyllis Trayner very often?

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A. I think --

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Q. We know it happened with respect

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to Baby Perreault. You gave evidence to that fact.

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Can you think of other times when that happened when

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she just wanted someone to be there with her when she
was handling a dying baby?

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A. This is the only occurrence that

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I was with her when a child was dying and there was a
do not resuscitate written.

16

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Q. All right. I think that is a

18

fair answer.

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My question is do you have any knowledge

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that this behaviour was exhibited at other times with

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respect to maybe the request that other nurses be
there with her?

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A. No, I know of no other times.

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Q. Okay. Fine. Now can you think

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of any other time that another nurse made a similar request in similar circumstances specifically of you?

A. Not specifically of me, but I know that it has occurred.

Q. All right. So the answer to that question is that you have heard of other situations where nurses other than Phyllis asked other nurses to be with them at times like that?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Now you also said, and this appears, Mr. Commissioner - I want to be careful about the wording here - at Volume 98, page 2216, you were talking with Miss Cronk - it actually starts at 2215, Mr. Commissioner, line 18 - regarding some of the, I won't say complaints, some of the observations that were made by other nurses regarding Phyllis' behaviour and their concerns with it, and you said:

"Our concern was amongst my team members that her reaction to the number of deaths and the arrests were slightly different than ours in that she sought more attention than we did and it was hard for us to deal with it



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"in the same manner. We would discuss things right after the arrests and perhaps go over things and things that we could have corrected or whatever, that we felt that Phyllis would go on and on about it."

And then later on down the page at line 14 you said, "But she", and you were referring to Phyllis Trayner:

"... was louder than the rest of her team members who were on for the same arrests.

"MS. CRONK: Q When you say louder, Ms. Bell, I take it from what you have said that one of the things that Ms. Trayner was doing as a result of her concern with respect to these arrests and the increased number of arrests was talking about the arrests themselves?

"A. That's right.

"Q Would I be fair in assuming that that that was certainly a matter of discussion amongst the other nurses as well?

"A. Yes, definitely.

"Q Was it then a case where Phyllis



CC. 13

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"Trayner appeared to be talking about them more frequently than the other nurses?

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"A. Yes, she was."

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Now first of all you have used several expressions there, and Mary Costello as well used the same word, the word "reassurance".

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Can you tell me what you mean specifically by "reassurance"? What kind of reassurance would she need? What were the things she needed said to her to make her feel better about this increase in mortality?

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A. Well, I think it was reassurance that we all sought but she, as I said here, she asked for them louder than the rest of us. Just going over the arrests, what had gone on during the arrests, if there was anything that we could do ourselves to improve our work, our nursing skills sort of before or during and after the arrests. How to deal with them afterwards, how to deal with parents afterwards.

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Q. Well, do you mean, and please correct me if I am wrong, because I am trying very hard to understand the state of mind at this time, that what she was really looking for by way of reassurance was some sort of judgment from her peers



CC.14

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and from her superiors that she had done everything she could in order to prevent the death. There was no fault on her part; there was nothing more that could have been done.

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Is that the kind of thing you mean when you talk about her needing reassurance?

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A. I believe it is.

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Q. Okay. And I think your point is then that she was more vocal in seeking that reassurance and she needed the reassurance more frequently and more often?

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A. Yes.

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Q. All right. Now you also used the phrase "she would go on and on about it".

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Now I am sorry, I don't mean to attribute to you any intention because after all I can only read your words; I can't get inside your head and understand what your thought processes are, but I detect a little bit of irritation in the use of those words, "go on and on about it".

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May I ask you this: Do you mean by that that Phyllis somehow seemed unusually preoccupied with the subject? Is that a fair statement?

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A. No, I don't think it is.

Q. All right. Well, didn't you mean



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to convey, and please tell me whether you did or not,
about using the words "go on and on", that you felt that
she was continuing to discuss it after the thing had
really been thoroughly thought out and the discussions
appropriately would have been at an end? It was a
spectre that she kept raising? Is that what you were
trying to convey?

A. Yes, it was.

Q. Okay. Well, I suggest to you,
and I would like you to either agree or disagree with
me, and if you disagree, tell me the reason
why, I suggest to you that really what that means
she was somehow preoccupied with it. Because she
didn't want - or I shouldn't say "didn't want" - she
appears to have not been able to let the subject rest,
to come to its natural conclusion.

Isn't that really what you are saying?

A. Or perhaps that she didn't get the
reassurance - that we didn't give her the reassurance
that she needed. She would have to go to other
sources.

Q. Okay. But you agree with me
that the need for that reassurance stemmed from some
type of preoccupation with it?

A. Oh, I guess if you have a
concern --



CC.16

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Q. You are preoccupied with it, it is on your mind and you keep asking people about it? Agreed?

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A. Agreed.

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Q. Okay. Fine. Now this idea of her needing reassurance, I take it from my reading of your evidence, and from my reading of what other witnesses said at the preliminary inquiry, and particularly from my reading of Miss Costello's evidence, that the reassurance was really a personal thing.

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Phyllis Trayner needed reassurance about Phyllis Trayner as opposed to Phyllis Trayner needing reassurance with respect to her team, the other members of her team. Is that a fair assessment?

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A. I don't know if I can answer that. I think it would be a fair question for Phyllis.

Q. Well, okay. I think probably you are right, but you must have some knowledge of the manner in which she sought out this reassurance. Did you ever hear her asking for it? Did you ever hear her discussing it with any of the cardiologists or the nurses?



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I think I said before that she did discuss it with cardiologists and I have overheard her speaking with cardiologists.

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Q. So you have some knowledge of the kind of conversations that would have gone on at these times, some rudimentary knowledge.

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A. Yes.

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Q. Now, using that knowledge in terms of the contents of what was discussed, what was your impression, was she seeking reassurance for her team members as a team, for a group of professionals or for her personally?

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A. I'm sorry, I can't answer that.

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Q. Is that because you just were not able to form an opinion from your own personal knowledge as to what she was trying to do, or is that because it has been so long now that you can't recall.

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A. I imagine it is a bit of both, but in my -- not being able to as well deal with the stress perhaps the way I should have, how can I evaluate Phyllis'?

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Q. Did Phyllis Trayner ever discuss with you personally this need for reassurance, did she ever come to you asking for reassurance?



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A. It was a discussion about the arrests, but no, not coming to me and saying I need reassurance.

Q. May I take it that you were friends?

A. Yes.

Q. Socially?

A. Yes.

Q. You certainly had these things in common professionally, you were both members of the same profession?

A. Yes.

Q. Working on virtually identical wards in the same hospital.

A. Right.

Q. And are you suggesting that throughout that period of time, throughout the whole nine month period, or even any time thereafter that you and Phyllis did not have specific discussions wherein she asked you your opinion about whether she had any personal responsibility for what was going on?

A. It was discussed on the ward, and again it would generally be discussed afterwards that she would try and discuss it, but I was not the type of person that would encourage it.



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Q. No, but by the same token I take it, and correct me if I am wrong, you were good friends, you wouldn't shut her off if she tried to talk to you about it.

A. But I had to deal with these things as well.

Q. I recognize that, but just answer my question, would you refuse to listen to her if she as a friend came to you and confided in you and wanted to discuss with you what was going on?

A. She never came to me and wanted to discuss things specifically that were going on, no.

Q. So your evidence is that at no time did you ever sit down and have a personal woman to woman discussion with her about the increased mortality and her specific role with respect to that?

A. That is right.

Q. Now, you say it was discussed on the ward. I take it when you say it was discussed on the ward you are referring to discussions which you were personally privy to.

A. That's correct.

Q. Now, from those specific discussions, the ones that you were personally privy to and were at, were you from those discussions, or are you from



1
2 your recollection of those discussions able to help
3 me at all about whether her concern seemed to center
4 on the team as a unit or herself personally?

5 A. It would be a discussion about
6 the deaths, so I couldn't say it was hers or her
7 teams, no, I can't.

8 Q. You also indicated in your
9 evidence yesterday that with respect to Jordan Hines
10 you were not on duty and you came back on duty on
11 March 16th, do I have that correctly?

12 A. Yes, that's right.

13 Q. And I believe your evidence was
14 that you recalled learning about the death on the 16th.

15 A. Yes.

16 Q. And that what you had heard on
17 the 16th was that there was some concern with respect
18 to that particular child because of the fact that
19 he had a normal heart, and because of the fact that
20 perhaps he was a SIDS death.

21 A. That's right.

22 Q. I believe Ms. Cronk asked you
23 where you may have heard that, and you said possibly
24 from Mary Jean Halpenny, but you couldn't be sure
25 of that. It might have been someone else.

A. That's right.



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2 Q. Is that a particularly sharp and
3 clear recollection in your mind now some three years
4 later?

5 THE COMMISSIONER: It obviously
6 wasn't sharp as to who it was, but you are talking
7 about whether the fact that the child died of SIDS
8 was sharp, is that it?

9 MR. TOBIAS: My point really is, Mr.
10 Commissioner, I mean clearly from the evidence itself
11 it wasn't in sharp in terms of the details.

12 THE COMMISSIONER: No.

13 MR. TOBIAS: But perhaps I can ask
14 the question more directly this way:

15 Q. Are you sure in terms of your
16 recollection of the timing, are you sure that it was
17 right when you came back on March 16th that you heard
18 the discussion about the possibility of Sudden
19 Infant Death Syndrome, could it have been later?

20 A. It could have been, I can't
21 pinpoint a date, no.

22 Q. In fact I would like to suggest
23 to you that it is possible it could have been much
24 later.

25 A. I'm sorry, I can't pinpoint the
date now.



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Q. Did you discuss the cause of death in Jordan Hines with respect to any of the cardiologists who were working on the ward at that time?

A. No, I didn't.

Q. Are you aware of what the state of knowledge of those cardiologists were with respect to the cause of death of Jordan Hines?

A. Was I aware of what the cardiologists knew?

Q. Yes.

A. No.

Q. And that is obviously because you didn't speak to them.

A. Right.

Q. I can tell you, and I ask you to just accept, I can read you from the transcript if I have to but I think we can save a lot of time if I am allowed to paraphrase; that Dr. Fowler's evidence when he was here is that he really didn't even consider Sudden Infant Death Syndrome, and really had no knowledge of it until a meeting that he had with the Hines to discuss the child's death in July of 1981 when he had to review the entire case and look at the hospital records.



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2 THE COMMISSIONER: Is it fair to ask
3 Mrs. Bell to second guess the cardiologist?

4 MR. TOBIAS: Clearly not, I am not
5 going to ask her to second guess it at all.

6 THE COMMISSIONER: All right.

7 MR. TOBIAS: What I intend to do, Mr.
8 Commissioner, is put that evidence to Ms. Bell in order
9 to make her aware of when they first found out about
10 it, in order to assist her in refreshing her memory
11 of perhaps whether or not it might have been considerably
later than March 16th when she heard about it.

12 THE COMMISSIONER: All right.

13 MR. TOBIAS: That is my only point.

14 THE COMMISSIONER: Yes, all right.

15 Q. Now, the evidence of Vera Rose
16 as well was that none of the cardiologists who got
17 together on the Monday morning to discuss the death of
18 Jordan Hines even considered or entertained the question
19 of Sudden Infant Death Syndrome, and she didn't consider
20 it until she had received the pathology report which
21 Dr. Becker in turn told us was not prepared and ready
22 for distribution until March 25th, 1981. The general
23 tenor of that evidence about them not knowing until
24 some time after the pathology report was released was
25 again confirmed by Dr. Rowe.



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Now, against the background of that evidence, does that help you at all recall whether or not it might indeed have been considerably later than March 16th, 1981 when you first heard Sudden Infant Death Syndrome mentioned in connection with Jordan Hines?

A. I can't place a date, no.

Q. So you are just not sure at all, you don't recall one way or the other?

A. No, I can't.

Q. Okay, fine. Since you don't know who told you, you would have no knowledge whatsoever about their state of information, or what that information was based upon.

A. That is right.

Q. Obviously.

A. Obviously.

Q. And even if you did know who it was who told you, since you were not there when they were told you would have even less information about their state of knowledge.

A. That's right.

Q. And what it really comes down to, and I am not being critical of you in any way, but what it really comes down to is a question of corridor



1
2 scuttlebutt.

3 A. Pardon?

4 Q. Corridor scuttlebutt, just what
5 is exchanged between the staff, or did you hear there
6 was a possibility that this one died from that and that
7 one died from this, or did you hear that, you really
8 don't have very much personal knowledge about the
cause of the child's death, do you?

9 A. I never claimed that I did.

10 Q. Okay, fine.

11 With respect to the reaction of the
12 nurses on 4B to the death of Jordan Hines, do you
13 recall at all what the reaction of Meredith
Frise was?

14 A. No, I can't.

15 Q. Let's talk about someone who
16 was actually on the team. Do you recall at all what
17 the reaction of Susan Reaper was?

18 A. No.

19 Q. Did you discuss the death of
20 Jordan Hines with her at any time?

21 A. I could have, but I don't know.

22 Q. And what about Miss Brownless, did
you discuss it with her?

23 A. Janet Brownless was not on my team.
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Q. No, I recognize that, she was on the 4A team. I won't ask you if you had opportunity, but did you in fact discuss it with her?

A. Not that I recall.

Q. So you wouldn't recall her reaction as well. I am somewhat surprised at this, I have examined this morning the medical chart of Jordan Hines which is Exhibit 103; and I have also examined the ward assignment book for Ward 4B. It appears really that other than being present at the arrest Mary Jean Halpenny had no contact with Jordan Hines whatsoever, were you aware of that?

A. No, I wouldn't be.

Q. And yet you recall specifically discussing it with Halpenny, now, are you sure it was Halpenny that you discussed it with?

A. I said I wasn't sure, I don't know if it was her, she comes to mind.

Q. Why does she come to mind in particular?

A. I don't know, perhaps because she was team leader while I was off.

Q. Your evidence on February 7th, 1984 I believe you said, and this exchange appears, Mr. Commissioner, in Volume 99 at page 2296.



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THE COMMISSIONER: Volume 99 at what
page?

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MR. TOBIAS: Page 2296.

5

Q. Ms. Cronk at line 6:

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"Well, may we take the children then
one by one."

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And then she goes on to tell you that she is going to
deal with Jordan Hines. Her question was:

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"Did Miss Halpenny or Mrs. Trayner that
evening indicate at any time to you
that there was a concern particularly
regarding the death of Jordan Hines?

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A. I believe there was a concern that
essentially the heart was normal, there
was a concern that death was due to
SIDS.

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Q. Do you recall being made aware
of a particular concern regarding that
child's death amongst the 4B nurses,
your own nurses?

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A. I believe that child died on 4B.

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Q. That is correct.

A. So the concern did come from
Mary Jean.

Q. From anyone else on 4B?



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A. There could have been but I distinctly remember Mary Jean being upset by it."

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Your evidence on the 7th was that you were pretty sure at that time that it was Mary Jean. Now, again I ask you, are you sure of that today in light of what I have told you of how little contact she had with the Hines baby?

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A. She comes to mind when we are talking about Jordan Hines.

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Q. The general tenor of your evidence was that she in particular was very upset?

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A. Yes.

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Q. Do you find anything unusual about that at all, that she was so upset about a baby that she had virtually no contact with whatsoever?

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A. No, I don't think so.

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Q. As a general matter, having had no contact, and when I say no contact let me be fair, what my research indicates is that at no time was she assigned to him. Now, that doesn't mean that she didn't go in occasionally and perform various functions for the baby, but she was not specifically assigned to him. She makes no recordings whatsoever in his progress notes and she administers no medication



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to him and her name does not appear anywhere on the flow sheet. In that situation would she really have very much knowledge of that baby's condition at the time he was admitted?

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A. I believe she was on those nights so she would have contact with him and the death.

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Q. So even though she was not particularly responsible for him she would know that basically he was stable and not expected to die?

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A. I don't know what she would have known, but she would have known of his condition.

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Q. Let us shorten it by getting to this question. Did she tell you if there was anything other than the fact that he had a normal heart that she found upsetting about his death; did she say anything to you about the manner of his death; the way he died and the efforts that were made to save him; did she say anything about that at all which would indicate to you why she was so upset?

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A. She was upset in the fact that he had died and that they had found a normal heart and again that it could be connected with SIDS.

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MR. TOBIAS: Mr. Commissioner, I only have one more area to cover and I can probably cover



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it in about 90 seconds.

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THE COMMISSIONER: Yes, all right.

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MR. TOBIAS: And it might be convenient
for me to finish.

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THE COMMISSIONER: All right, let's
take that 90 seconds.

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MR. TOBIAS: Perhaps I could do that
prior to the break, but don't hold me to that, Mr.
Commissioner, because I lie sometimes, but never
intentionally.

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THE COMMISSIONER: We all lie, but I
think you are less likely to lie if it is immediately
after you have said that and I
to think about it.

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MR. TOBIAS: Yes, this is true,
especially if you look at your watch enough times,
I am likely to be very accurate with my time estimate.

Q. I would like to speak to you for
just a minute about the meeting at Liz
Radojewski's house on March 23rd, and I apologize.
I know it has probably been covered at this point ad
nauseum. I would like to give you an opportunity
to tell me directly what you interpreted to be the
meaning of some of the things said at that meeting
and what was in your mind when you left that meeting.



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Basically what I am interested in is this. You were there and a number of other nurses were there. How long were you at Liz's house that night?

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A. I believe an hour to an hour and a half.

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Q. So that with respect to the things that were discussed, and that was the strange events on Ward 4A and 4B; the fact that the digoxin had become a controlled drug, the keys to the narcotics cabinet were taken away and other things such as that, obviously over the course of an hour or and hour and a half there must have been a pretty thorough discussion about those specific concerns.

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A. I wouldn't say thorough, there was definitely a discussion.

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Q. Okay. Was it a discussion in which most of the people there, if not all, got an opportunity to voice their concerns, they all had their say?

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A. I don't think so, there were people coming in and out, so, there could be people that didn't voice their concerns.

Q. All right. And is it true, I believe you have already indicated in your evidence, that essentially that was the only topic really covered was the general concern for why this was happening?

A. Right.

Q. And you wanted an explanation and you weren't getting that explanation?

A. Right.

Q. So, I suggest to you, and I am not going to quarrel with you about the definition of the word "thorough", but it is clear that it wasn't discussed in three or four minutes just at a very vague general level, the people there obviously directed their minds to the question. Is that fair?

A. I'm sorry, to what question?

Q. To the question of why these things were happening and what the reasons were?

A. Right, and the stress that was being felt by all these restrictions being placed on them.



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Q. Okay. Now, isn't it true that essentially the only concrete thing that came out of that meeting other than the fact that certain of the nurses were going to the Registered Nurses' Association the next day and that there was some talk about perhaps getting legal counsel. The only thing of substance that really came out was that most of you were of the view that you had to support each other and stick together through this thing. Is that a fair summary?

A. I don't think so, no.

Q. Well, okay. Tell me what you understood was meant by the "We'll get through this, we have to stick together". What did that specifically mean to you, what did that connote?

A. That because we are nurses we can deal with this stress and we can help each other somehow deal with the stress.

Q. Okay. In what way help each other?

A. Whatever way we could, you know, deemed possible for each person, everybody would need something different.

Q. Well, okay. My point is this and I want to be very specific. You lived



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2 through the suspense, they were part of your life,
3 I take it, a rather traumatic and major part of your
4 life. What specifically, can you give me an example
5 of the kind of support you are talking about? What
6 kind of support did you require?

7 A. The kind of support that I was
8 looking for at that time was to get answers to my
9 questions of what had happened, why the Hospital had
10 been placing restrictions on us.

11 Q. All right.

12 A. That would have been the kind
13 of support I was looking for.

14 Q. Okay. Did you have any
15 appreciation that evening for what kind of support
16 other members of the staff were looking for?

17 A. No.

18 Q. You didn't know, wasn't that
19 one of the things that was discussed?

20 A. Basically I was there for my
21 own needs.

22 Q. Right.

23 A. So, I can't assess what other
24 people, what specifically other people were looking
25 for. Certain people were frustrated and openly showed
their frustration, as has already been said. But



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2 everybody had their specific needs and they had
3 been there at different times of the day as well.

4 Q. Well, all right. Is it your
5 evidence that when you walked out of that meeting
6 you had no appreciation whatsoever of the specific
7 kinds of support that other people were looking
8 for?

9 A. Yes.

10 Q. Okay. Did you give other
11 people on the team support, do you think you did,
12 did you try to?

13 A. I don't think I made a
14 conscious effort at it, no. How could I offer
15 support for something that I didn't understand.

16 Q. So, you didn't make any efforts
17 to help your fellow nurses get through this?

18 A. I don't see how I could if I
19 didn't understand the situation myself.

20 Q. Well, I'm not asking you if
21 you could see whether you could or not, I'm asking
22 you whether you did?

23 A. No.

24 Q. Did you make any efforts?

25 A. No.

MR. TOBIAS: Okay, those are all



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my questions, thank you.

THE COMMISSIONER: Thank you.

Mr. Brown, you want to examine?

MR. BROWN: Yes.

THE COMMISSIONER: Does anyone
else want to cross-examine? Yours I take it will
be short, is that right?

MR. BROWN: No more than 10 minutes,
sir.

THE COMMISSIONER: Yes. Well, I
will just look ominously in this direction over here
to the lady sitting on the left. I think we will
try to get through today if we can.

So, we will take 15 minutes.

MS. KITELY: Mr. Commissioner, if
I might on that point. If my friend is going to be
10 minutes we will be well into 4 o'clock.

THE COMMISSIONER: Well, all right,
we will be just into 4 o'clock. And you would like
to go on - but it means bringing this witness back
and it means delaying us further. I think I would
like you to try.

MS. KITELY: Well, Mr. Commissioner,
I want to start off by saying I am ready and I am
prepared for it.



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THE COMMISSIONER: Yes.

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MS. KITELY: But Mr. Percival took

a long time, Mr. Hunt did and all the other people
and I don't want to start my re-examination of this
witness feeling that I am pressed to finish within
an early hour, particularly having Miss Cronk who
has to also examine after me and I think for a half
hour's delay, which is what it will amount to, I
would ask that we be allowed to do the re-examinations
starting off on Monday morning. I am quite prepared
to start early on Monday morning if that will assist.

THE COMMISSIONER: Well, you don't
want to be under pressure. I didn't say I was
going to put you under pressure, I just really
wanted to get on with this Commission. We work
until 4:30 normally anyway, we work later if we can.
I don't want you to feel that you are being oppressed
and you obviously do feel that you are being oppressed
but I don't see why being oppressed is to...

MS. KITELY: Mr. Commissioner, I
estimated 30 to 60 minutes. If I'm starting at
4 o'clock --

THE COMMISSIONER: You can now up
that a little to frighten me off.

MS. KITELY: No, I am not upping it,



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sir. But if I start at 4 o'clock and I go to
5 o'clock and Miss Cronk has got what she says might
be an hour or best, depending on what I do, it is
conceivable we will be here until 6 o'clock, and
might I remind you we started at 9:30 and it has
been a long day not only for us but for the witness
and I would ask you, sir, to consider perhaps
allowing Mr. Brown to finish and then calling it a
day straight away.

THE COMMISSIONER: Yes, yes, yes.

Mr. Brown, I think you had better
stretch that 10 minutes a little. Can you find a
couple of extra questions to ask because clearly I'm
going to make an enemy for life if I force...

However, will you make good use of
the weekend to pare down your questions.

MS. KITELY: Absolutely.

THE COMMISSIONER: So that instead
of a half an hour to an hour it will be 15 minutes to
a half an hour. How is that for an exchange of
favours?

MS. KITELY: I will try, how is that?

THE COMMISSIONER: All right, you will
try.

And the same applies to you, Miss Cronk,



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I'm sorry to say.

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MS. KITELY: Would you like to start
at 9:30 on Monday to make up for it?

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THE COMMISSIONER: No, I don't
particularly want to start at 9:30 because we've
got a whole week ahead of us. I save my abuse until
the end of the week. I'm easy to get along with on
Monday.

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MS. KITELY: I will remember that,
sir.

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THE COMMISSIONER: All right, we
will take 20 minutes now to 4 o'clock. That doesn't
mean you can go more than a half an hour.

---Short recess.

---Upon resuming.

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THE COMMISSIONER: I want to say
something to you, Mrs. Bell, that I haven't said
to date to any of the witnesses.

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Mr. Brown is going to be examining you
shortly and except for that I'm going to ask you not
to discuss this case with anyone, with the press,
with any counsel, that includes Miss Kitley and
Miss Cronk, until you come back on Monday morning
at 10 o'clock to give your evidence. Are you prepared
to comply with that request?



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3 THE WITNESS: I am sorry, to not
4 discuss what?

5 THE COMMISSIONER: Not to discuss
6 your evidence or anything about this case with anyone
7 between now and Monday morning at 10 o'clock.

8 MS. KITELY: Mr. Commissioner?

9 THE COMMISSIONER: Yes.

10 MS. KITELY: I'm sorry,
11 Mr. Commissioner, could I ask the reason why?

12 THE COMMISSIONER: Yes. The reason
13 why is that I think this evidence is of great
14 importance. I think it is equally important that
15 as we are not able to complete it and as we have to
16 go over until 10 o'clock on Monday morning it is
17 my view that this witness should not discuss the
18 case with anyone. I want the re-examination to
19 proceed as it would in an ordinary trial. That is
20 part of my discretion, and that is the way I exercise
21 it.

22 So, it simply means that you may not
23 communicate, or any member of your firm, nor the press,
24 nor Miss Cronk, nor any other counsel with this
25 witness between now and 10 o'clock on Monday morning.

MS. KITELY: Not that I'm quarreling
with you, sir, but is this a rule that will be applied



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3 to all subsequent witnesses?

4 THE COMMISSIONER: No, it is being
5 applied only in this instance. I had hoped that we
6 would finish the evidence of this witness today.
7 We are unable to do it, we have to go over until
8 Monday morning. In the meantime, I don't want the
9 witness conferring with anyone with respect to her
10 evidence. Do you understand? Do you understand
11 what I've said?

12 MS. KITELY: I understand quite
13 clearly what you have said, sir.

14 THE COMMISSIONER: Yes. And the
15 witness is prepared to comply? Are you not prepared
16 to comply?

17 MS. KITELY: Mr. Commissioner, I'm...

18 MR. TOBIAS: I'm sorry, Miss Kitely,
19 can you speak up.

20 THE COMMISSIONER: Because I have
21 a simple remedy if you are not prepared to comply.

22 MS. KITELY: Yes, I appreciate what
23 the remedy is, sir.

24 THE COMMISSIONER: Yes.

25 MS. KITELY: Might I say that under
the circumstances we will comply but I find the
circumstances most peculiar and the restriction



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3 on my ability to consult with my own client rather
4 unusual and I would not want my consent to be taken
5 as to a consent other than today and this particular
6 witness.

7 THE COMMISSIONER: Yes, I heard
8 what you had to say but I also heard that you were
9 prepared to comply.

10 MS. KITELY: Yes, reluctantly, sir.

11 THE COMMISSIONER: That means that no
12 one will be consulting with this witness over the
13 weekend. She will not be giving any interviews,
14 she will not be discussing it with any counsel, with
15 any person whatsoever and that I understand you have
16 agreed to that, have you?

17 THE WITNESS: Yes, sir.

18 THE COMMISSIONER: Yes, all right.
19 The only person that you are allowed to discuss it
20 with between then and now is Mr. Brown who is about
21 to cross-examine you.

22 All right. Now, Mr. Brown, you've
23 got a special position.

24 CROSS-EXAMINATION BY MR. BROWN:

25 Q. Mrs. Bell, there are just a
few matters I want to raise with you flowing from
your cross-examination by Mr. Percival yesterday and



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3 today.

4 During the course of that cross-
5 examination Mr. Percival asked you whether you had
6 discussed with your nursing and medical colleagues
7 the subject of mercy killing and euthanasia and I
8 recall that you said over the course of your career
9 you have discussed that with them, is that correct?

10 A. That's correct.

11 Q. Mr. Percival was a bit more
12 particular and he asked you whether or not you can
13 recall discussing that subject with Susan Nelles or
14 Phyllis Trayner at any time prior to March of 1981
15 and I believe he asked you the question twice and
16 the first time he asked you the question the answer
17 you gave, which is at Volume 100, page 2773
18 commencing at around line 14 the question was:

19 "Q. Do I take it then that in the
20 course of the year prior to March 1981
21 from time to time because Phyllis
22 Trayner and Susan Nelles are two of
23 your nursing friends that you talked
24 to them about mercy killings?

25 A. It is possible, yes."

And then the question was put to you
again on page 2775 again starting at approximately



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line 14:

"Q. Right. So, I take it at least you can confirm at least to this Commission that prior to March 1981 Susan Nelles and Phyllis Trayner and yourself participated from time to time - I am not asking you how frequently - in discussions about mercy killings?

A. I would assume that we would." Now, your answer to Mr. Percival's question was "It is possible, yes." and "I would assume that we would."

Do you have any specific recollection whether on any occasion you discussed the topic of euthanasia with Susan Nelles?

A. I don't know if I recall a specific time that I spoke with her about euthanasia but I could have because we did have children in our area where we had to deal with 'do not resuscitate' orders and as nurses we had to deal with that.

Q. So, your recollection would be that because you had such children on the ward the topic may have come up?

A. That's right, and our ways of



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dealing with the deaths of children were that such
orders were in place.

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Q. Well, do you recall when
you gave evidence at the preliminary inquiry that
Mr. Cooper asked you certain questions on this
topic?

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A. I believe he did, yes.

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Q. And do you recall him asking
you whether you did indeed discuss the topic of
mercy killings with Susan Nelles? Perhaps I could
turn you then to your evidence of Volume 7 of the
transcript at the preliminary inquiry.

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If you would turn please to page
1651 commencing at the bottom of the page. Mr.
Cooper's language was a bit blunter than what you
have heard so far:

"Q. And are you in favor of mercy
killing in terms of snuffing out lives?

A. No.

Q. Were any of the nurses on the
floor that you were aware of in favor
of giving people injections, sick people,
to snuff out their lives?

A. Not that I know of, no.

Q. Not that you know of. Certainly you
never discussed with Susan Nelles that
it would be a good idea that any patient
be snuffed out, you never discussed
that with her.

A. No.

Q. No, it is contrary to all that
nurses are trained to do and their whole
raison d'etre, isn't that right?

A. That's right.

Q. They are there to make people
better not to injure them, isn't that
true?



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A. Yes."

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Does that exchange assist you, Mrs. Bell, in
recollecting whether you on any specific occasion
discussed the topic of mercy killing with Susan
Nelles?

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A. It doesn't.

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Q. During the course of his cross-examination Mr. Percival asked you questions about a remark which you recall overhearing after the death of Justin Cook, a remark that you recall made by Susan Nelles to Marie Mandel. Can you recall, please, exactly what was the remark that you overheard?

A. I can't recall exactly, but it was to the effect that she used some number, and I can't think what number; 6 out of 7 or whatever isn't bad, something to that effect.

Q. Do you recall whether she said 6 out of 7 isn't a bad record?

A. She could have.

Q. Do you recall whether she said 4 out of 5 is a bad record?

A. I am not sure of the specific number she used, but it was a high number; more than 1 or 2.

Q. So she said some sort of number with some sort of nights?

A. Yes.

Q. And she may or may not have made an additional comment on that?

A. Right.



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Q. I take it it hasn't left a lasting impression in your mind if you can't recall the specific numbers and the specific comment.

A. That is right.

Q. Where in fact did you hear this?

A. I thought it was in our clean utility room, around where the formulas were which would be where the linen is.

Q. And were you in there conducting a conversation with Ms. Nelles and Ms. Mandel?

A. No, I was just walking through. I wasn't participating in the conversation really.

Q. And it was in the course of walking through that you overheard Ms. Nelles make that remark?

A. That's right.

Q. And when you overheard that remark did you stop and turn to her and say, "Susan, that's a strange thing to say"?

A. No, I didn't.

Q. Did you stop at all?

A. No.

Q. Did you make any comment at all to Ms. Nelles?

A. No, I did not.



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Q. You just kept on walking?

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A. Yes, I did.

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Q. What was your reaction when you
heard Ms. Nelles make that comment?

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A. I felt she was very frustrated
and the tone of her voice was of frustration and I
took that comment as just sheer frustration and spewing
out words. No significance particularly to the words
but more to letting off some of her frustration.

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Q. Well, the tone of her voice you
say was one of frustration. Was there a sense of
satisfaction or achievement in the tone in which she
said that remark?

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A. No.

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Q. Was there a sense of frustration?

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A. Yes, definitely.

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Q. Was there a sense of disgust?

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A. I don't know. Definitely
frustration. I guess you could say disgust. I don't
know.

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Q. Did you see Ms. Nelles' face
when she made that remark?

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A. Yes.

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Q. And how did she appear to you at

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that time?

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A. She was upset and just the look of frustration again.

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Q. And after the death of Justin Cook earlier that evening I gather you testified before that Susan Nelles appeared to be upset.

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A. Yes.

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Q. And indeed you may recall her crying?

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A. Yes.

Q. And when you walked by that room and you overheard Ms. Nelles make that remark, did you regard that as a suspicious comment?

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A. No, I didn't.

MR. BROWN: Those are all the questions I have, sir.

THE COMMISSIONER: Yes. All right, thank you, Mr. Brown.

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Well, then until 10:00 Monday morning.

And I remind everyone that by I think it is 2:30 on Monday afternoon these lists that you want to have. When I remind everyone, I think it is only the parents that I have to remind.

All right. Thank you until Monday morning, Mrs. Bell.

---Whereupon, the hearings were adjourned at 4:10 p.m. until Monday, February 13th at 10:00 a.m.

